

MEETING OF THE PARLIAMENT

Thursday 21 November 2002
(Morning)

Session 1

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Scottish Parliament

Thursday 21 November 2002

(Morning)

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 09:30*]

Title Conditions (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Mr George Reid): Good morning. The first item of business is a debate on motion S1M-3188, in the name of Jim Wallace, on the general principles of the Title Conditions (Scotland) Bill.

09:30

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): The Title Conditions (Scotland) Bill is the second part of the Executive's programme of property law reforms, following the Abolition of Feudal Tenure etc (Scotland) Act 2000. The bill complements and completes the process of feudal abolition and will provide Scotland with a modern and simplified framework for the ownership of property.

It is worth dwelling for a moment on that issue. We are only a few months from the end of the first session of the first Scottish Parliament in 300 years. Provided that the Parliament agrees to the passage of the bill, by the time the session ends we will have modernised and reformed completely the system of land tenure in Scotland. The law will be simpler and easier to understand. That is no small achievement and all members of the Parliament can be proud of it.

The bill is a law-reforming bill. It is intended to reform the law in an area that affects large numbers of us, as it affects the rights of house owners and tenants, but that is not widely known or understood. Many of the terms that are used in the bill are not widely known or understood either. This is a highly technical area of law. For that reason, it is especially important that I pay tribute to the hard work of the committees of the Parliament—not least the Justice 1 Committee—that have examined the bill during its progress to date. I do not underestimate the task that the Justice 1 Committee has undertaken and will continue to carry out at stage 2. However, I believe that the committee has worked with a good spirit—I am sure that the Parliament will agree that it has produced a very good report.

I also mention the work of the Scottish Law Commission. The commission's report on real

burdens laid the foundations for the bill. I record my appreciation of the commission's diligence and of the exhaustive work that it has undertaken in reviewing the law on title conditions and suggesting modernising reforms. The commission's report was published in 2000, following the enactment of the Abolition of Feudal Tenure etc (Scotland) Act 2000, which largely implemented the commission's recommendations on the abolition of the feudal system. The commission has also published a report on the law of the tenement, so it has carried out a comprehensive review of Scottish property law.

In the introduction to the consultation paper on the Title Conditions (Scotland) Bill, I wrote:

"Scotland is well served by its Law Commission and it is a source of great satisfaction to me that the Scottish Parliament now provides a legislative avenue by which the Commission's recommended reforms may be implemented."

Scots property law is distinctly different and separate from the law that applies in the rest of the United Kingdom. Members can imagine how long it would have taken for time to be found to deal with these measures at Westminster.

It may be helpful if I explain briefly what title conditions are and how they fit into the general structure of land regulation. Title conditions are conditions that apply to land ownership. In this context, land includes the buildings that stand on it. The most common type of title condition is the real burden. Others include servitudes and conditions in long leases. However, the bill is concerned principally with the law in respect of real burdens.

Despite its arcane name, a real burden is a practical legal tool. The use of real burdens is widespread. Most of us will have a real burden attached to our homes. We may be required to use our home for residential purposes only and be forbidden from using it to run a business. We may be prohibited from keeping pets or be obliged to keep our property in good order and repair. The title conditions on my property prohibit me from selling alcohol on the premises. Real burdens are important instruments for controlling and improving our quality of life.

The Justice 1 Committee's stage 1 report on the bill contains a large number of detailed observations. It is not possible for me to comment on all of them this morning. Indeed, the report helpfully invites me to write to the convener of the Justice 1 Committee on a number of matters. I am sure that members will be greatly disappointed when they hear that among the issues about which I have been asked to write to the convener is the possible reintroduction of section 14 of the School Sites Act 1841 and that I will not, therefore, refer to that issue in my speech.

Christine Grahame (South of Scotland) (SNP): Thank goodness.

Mr Wallace: I knew that there would be disappointment.

I will refer to some of the main issues that are highlighted in the report. When I gave evidence to the Justice 1 Committee, I indicated that we would be willing to reconsider some of the minor limits or time scales that are included in the bill. The committee suggested one or two changes. We accept that the limit on acquiescence should be changed from eight to 12 weeks. We have considered the committee's detailed proposals on sheltered housing and are prepared to drop the size of the majority that is required for the variation of core burdens in sheltered housing from 75 per cent to two thirds. We accept that the time limit for a manager burden in sheltered housing should be reduced from 10 to five years. We propose to take account of the committee's view that the limit should apply to all manager burdens except those attached to houses that were formally owned by a local authority or other registered social landlord. The Executive will instruct that amendments be lodged on all those matters at stage 2.

In the light of evidence that was given at stage 1, we have reconsidered the provisions of the bill covering common schemes. We intend to lodge an amendment that will clarify the operation of section 48 of the bill, which relates to burdens under a common scheme. That is a particularly complex area of law. In its stage 1 report, the committee exhorted us to re-examine the explanatory notes that cover the relevant sections in parts 2 and 4 of the bill. We will do that, because we recognise that practitioners will consult the notes frequently as they start to use the new procedures.

A moment ago, I mentioned sheltered housing. One of the aspects of the bill that has aroused most interest is the effect that the legislation will have on sheltered housing. I know that many owners in sheltered housing complexes have been concerned that the bill might not cover retirement developments. It might be useful to them if at this point I state definitively that the Executive firmly intends that all references to sheltered housing in the bill should be taken to include retirement housing.

The Justice 1 Committee recommended that we conduct a review of the operation of sheltered housing developments in Scotland. Over several years, the Executive has received numerous complaints about the management of owner-occupied sheltered housing. For that reason, a working group chaired by the then Scottish Office was established in 1997 to prepare a voluntary framework code of management practice for Scotland that ministers could endorse. Many of the organisations that gave evidence to the Justice 1

Committee were represented on that group. The code, which is much wider than the proposals in the bill, was published in 2000.

The bill gives owners certain rights that go beyond the recommendations of the code—for example, to change the manager of a sheltered housing development. In my view, it is too soon to institute a review of the operation of owner-occupied sheltered housing. The code, together with the elements of the bill that apply to owner-occupied sheltered housing, should be given time to bed in before we consider carrying out a review.

The committee suggested that the bill should stipulate a minimum age for occupation of owner-occupied sheltered housing and that there should be flexibility to adjust that age upwards. People can buy into different types of owner-occupied sheltered housing. If the bill stipulated a minimum age, the ability of prospective purchasers to choose the type of sheltered housing that is suitable to their needs would be reduced. People buying into a complex whose title conditions stipulate a minimum age for occupation will be aware of that when they make their purchase. In order to maintain the nature of the development, it should not be possible to change the age limit unless all owners agree. That is my view as set out in the bill.

Another aspect of the bill that has attracted some interest is the omission of a development management scheme from the bill as introduced. The draft bill by the Scottish Law Commission contained a model development management scheme, which was offered as an option for use in larger, more complex new developments, as opposed to normal tenements. The scheme would have had to be adapted to suit particular circumstances. Although it contains provisions on helpful and desirable aspects of a large development, such as an owners association, the appointment of a manager and financial arrangements, specific provisions would have had to be added on maintenance of the development's facilities.

It was not possible to include a development management scheme in the bill as introduced because it had become clear that that touched on a reserved matter. As the committee and Parliament are aware, the Executive has been engaged in negotiations with both the Scotland Office and the Department of Trade and Industry about progressing the matter. As a result, I am happy to announce that an amendment will be lodged at stage 2 to reintroduce the development management scheme as an option that developers and owners might wish to adopt. The details of the scheme that cover reserved matters will be contained in an order to be promulgated at Westminster.

At this point, it is worth touching on an associated matter on which the Justice 1 Committee took evidence—whether a particular management scheme should be imposed on all tenements irrespective of what the title deeds say. As I said earlier, a further bill in the programme will deal with the particular situation of tenements.

The draft tenements bill, which has been prepared by the Scottish Law Commission, does not propose that existing title deeds be superseded by any new management scheme. The commission's view is that many existing tenements have perfectly good arrangements for management and maintenance and that those should not be disturbed. It also thinks that it would be wrong to impose any one scheme on new tenements. The draft bill provides that every tenement must have a management scheme, so that there is a clear decision-making mechanism for owners to reach agreement about matters of mutual importance. The Executive will consult on the draft tenements bill in due course and it will want to take account of the views of the housing improvement task force when it does so.

Although the tenements bill will make specific and detailed provision for tenements, the Title Conditions (Scotland) Bill will also provide limited help. For example, where there is no provision in existing title deeds for reaching decisions, the bill provides that decisions on matters such as instruction of maintenance may be taken on a majority vote.

The Justice 1 Committee also suggested that we re-examine the practicalities of the creation of the new implied right in housing estates. That is a difficult issue and I will certainly write to the committee to set out my views in more detail. However, it might be useful for me to say a brief word now, because the matter is of general interest and affects many people.

The scenario will most often arise on a modern housing estate, which is likely to have burdens that say, for instance, that an individual owner may not run a business from their house, that they are not allowed to park a lorry in the drive or that they are expressly forbidden from keeping a large number of pets. All the owners will be bound by the same burdens. Indeed, many of them might have bought into the scheme because they were attracted by the general appearance and the standard of upkeep. In many estates, the burdens will have been laid down by the feudal superior, who will have reserved the right to enforce the burdens himself or herself.

With the passing of the feudal system, the question is what should happen to the superior's enforcement rights. If they are simply abolished and do not pass to anyone else, the burdens would simply disappear, because there would be

no one to enforce them. That is a real issue; we were concerned about it because we thought that it could lead to a deterioration in the quality of life for those who live in such estates. We consulted fully on the question and gave it much thought before concluding that enforcement rights should be passed to neighbours.

Another aspect is the effect of the bill on many housing estates that were previously council estates and where some tenants have exercised the right to buy. Typically, the authority will have reserved enforcement rights to itself. Many burdens in former social housing estates are concerned with the maintenance of the property. Although facility burdens will be saved automatically, they relate essentially to common facilities. A requirement that an individual owner should maintain their house properly would not be saved. Members are well aware of the issue of the condition of many former council estates and the need to ensure that fabric does not deteriorate.

We took the view that we did not want to make matters worse by removing a sanction against those who do not look after their property, particularly in estates in which people have understood that the means would be available to ensure that property was well maintained. I understand the concerns of the Justice 1 Committee and of those who gave evidence to it that the expansion of enforcement rights might lead to a more cumbersome and expensive conveyancing system, but I do not accept entirely that those concerns are properly based. I shall write to the committee on that point, but it is worth flagging up now the fact that I am not disposed to alter the provisions of the bill on the matter.

Lord James Douglas-Hamilton (Lothians) (Con): The Law Society of Scotland confirmed to me this morning that it is to make further representations on that point, which is particularly complex. Before the minister writes to the Justice 1 Committee, will he kindly consider the Law Society's representation?

Mr Wallace: I certainly accede to doing that. We have a tight time scale for stage 2 and I encourage the Law Society to make representations soon. I want to give the points that it raises proper consideration.

The bill is extremely wide ranging. I move from the question of modern housing estates to the question of development value burdens and clawback for local authorities. As we indicated in the policy memorandum, that is an area in which we expect to lodge Executive amendments at stage 2. Local authorities often sell land subject to a feudal burden that restricts the future use of the land. However, the underlying purpose is not to restrict the use of the land, but to share in any windfall increase in its value. With the passing of

the feudal system, it will no longer be possible for feudal burdens to be used for that purpose and therefore the question has arisen whether there should be other means to facilitate that.

The Executive has accepted that there is a valid case for permitting authorities to protect land sales and, by extension, public funds in such circumstances. We therefore propose to introduce amendments that will allow local authorities to enter agreements with landowners that would mirror closely those permitted to Scottish Enterprise under section 32 of the Enterprise and New Towns (Scotland) Act 1990, which is amended by section 101 of the bill. Those statutory land agreements would, like those that Scottish Enterprise employs, be the functional equivalent of real burdens, although they would not be subject to the law of real burdens.

Local authorities have argued that they would also like to be able to impose burdens on land when they sell it off cheaply for a specific restricted use that is intended to benefit a community. However, the Convention of Scottish Local Authorities has not suggested to us a definition of a burden that is sufficiently restricted. Too broad a definition would allow the feudal system to be recreated for local authorities alone, which we do not believe would be acceptable. It remains open to local authorities that wish to provide land for community or amenity purposes to lease the land, perhaps at a peppercorn rent, or to use a trust arrangement.

Murdo Fraser (Mid Scotland and Fife) (Con): Will the minister explain why as a matter of policy the clawback arrangements to which he referred will be available to public authorities but not to private developers?

Mr Wallace: That arose out of specific concerns that were expressed to us, not least by local authorities that had noted that there was provision for local enterprise companies to enter into such arrangements. Like local enterprise companies, local authorities are most likely in the circumstances to have land that they would want to make available solely for the purposes of promoting economic development.

The bill is part of a wider programme of property law reform. It might be useful to indicate how we intend to implement the package and the time scales involved. Members are only too aware that the Abolition of Feudal Tenure etc (Scotland) Act 2000 has not yet been fully commenced. When that legislation was passing through the Parliament, members accepted that the commencement of the act should await the passage of the Title Conditions (Scotland) Bill and that the two pieces of legislation should be commenced at the same time. The Justice 1 Committee acknowledges that in its report.

However, I am keen that we press on with the implementation of the two pieces of legislation as soon as we can. It is acknowledged that the process of implementation is complex. A number of pieces of subordinate legislation have to be put in place before the transition of one system of property tenure to the other can start. It is clearly important that that transition be orderly. After all, we have waited 800 years for the change and we do not want to ruin it with undue haste. At the same time, we do not want to lose sight of the big picture. The object is to replace a system that is old fashioned and oppressive with one that is clear, modern and fair and we do not want to hang about.

I inform members that commencement of the transitional arrangements for the two pieces of legislation will be in the autumn of 2003. It was always envisaged that superiors and others who wished to preserve certain rights in the limited circumstances that the 2000 act specifies should have a reasonable period in which to do so. Given that two years have elapsed since the passing of the 2000 act, superiors have had considerable time in which to examine their titles and consider which rights they wish to preserve by the registration of notices under the act. In the circumstances, it seems right that the transitional period during which the requisite notices will be registered should not be any longer than necessary and should certainly not be longer than a year.

As the appointed day has to be one of the term days of Whitsun or Martinmas for the purposes of the extinction of feu duty, I propose that the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the Title Conditions (Scotland) Bill should both be fully commenced at Martinmas 2004—28 November 2004—which is two years and one week from today. That will be the appointed day on which the feudal system of land tenure in Scotland will finally come to an end.

Phil Gallie (South of Scotland) (Con): When the Abolition of Feudal Tenure etc (Scotland) Act 2000 was passed, it was suggested that it would be linked with the Title Conditions (Scotland) Bill and a bill on the law of the tenement. What is happening about a bill on the law of the tenement?

Mr Wallace: The law of the tenement was another part of the package. It was never suggested that the proposed bill be linked to the commencement of the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the Title Conditions (Scotland) Bill. As I indicated, it is our intention to produce a consultation on the basis of the Scottish Law Commission's report on the law of the tenement. I cannot give a fixed date for that, but I hope that it will be sooner rather than later.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I welcome the abolition of the feudal system. However, as the minister pointed out, superiors will be able to continue to exercise their rights, albeit under another name. I notice that section 81 of the bill, which concern the powers of the Lands Tribunal for Scotland, will continue to allow X superiors to seek payments from the Lands Tribunal in exchange for the Lands Tribunal's discharging of feudal conditions. Does the minister agree that, in practice, that is one of the most controversial and unfair aspects of the feudal system? Does he believe that the bill goes far enough in preventing feudal superiors from continuing to obtain substantial payments in exchange for minutes of waiver?

Mr Wallace: As Fergus Ewing is well aware, such matters have been pored over in great detail. The circumstances in which the superior will be able to take the action that he has described will be very limited in comparison with what has been going on for centuries. There has to be some interest involved, as well as just the existing title.

Finally, I must deal with a formal matter. For the purposes of rule 9.11 of standing orders, I advise the Parliament that Her Majesty, having been informed of the purport of the Title Conditions (Scotland) Bill, has consented to place her prerogatives and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

I move,

That the Parliament agrees to the general principles of the Title Conditions (Scotland) Bill.

09:52

Michael Matheson (Central Scotland) (SNP): I always thought that the bill would catch the imagination of members. Having served on first the Justice and Home Affairs Committee and then the Justice 1 Committee for some three or more years, I can say that the bill has proved to be one of the more complex, if not the most complex, pieces of legislation with which we have dealt.

Solicitor colleagues inform me that, while they were studying for their law degrees, lectures in conveyancing law were often those that had the poorest attendance. I now fully appreciate why that was the case. [*Interruption.*] Fergus Ewing says, "You can buy the notes."

I want to place on record my gratitude for the work of the clerks to the Justice 1 Committee in pulling together our report on an area that is new and complex to them as well. As always, they have done an excellent job. I also thank the committee's adviser, Scott Wortley, who has proven to be very enthusiastic about the bill and who has considerable knowledge of the area with

which the bill deals. His assistance has been first class.

As the minister stated, the bill is one of a number of pieces of legislation that seek to reform property and conveyancing law in Scotland. Given that there were two years between consideration of the Abolition of Feudal Tenure etc (Scotland) Act 2000 and consideration of the Title Conditions (Scotland) Bill, it could be argued that it would have been better management to have run the two bills in tandem, or at least in closer proximity. However, I welcome the fact that the minister was able to announce that the appointed day has been agreed.

One of the issues that the committee highlighted is acquiescence. Acquiescence was a new topic for me and, I am sure, for a number of my committee colleagues. There are probably thousands of properties across Scotland in relation to which burdens have been breached without the benefited proprietor being aware of that. An expert in the field who gave evidence to the committee even admitted that he had breached his burdens without the benefited proprietor knowing and that he had no intention of advising the benefited proprietor of it.

I welcome the fact that the bill will provide some guidance on the time scale for benefited proprietors to object to such a breach. I welcome in particular the fact that the minister has taken on board the committee's recommendation that the time scale for that process should be extended from eight weeks to 12 weeks. It was conceivable that, after visiting their auntie in Australia or New Zealand for a month or two, someone might have come back to find that something had been taking place in a neighbouring property but that they could do nothing about it. The 12-week period will be more effective in helping to ensure that such scenarios do not arise.

The sunset rule caught the imagination of Maureen Macmillan to such an extent that I am tempted to call it the Maureen rule. However, that could be misconstrued. I am sure that some members will be unaware of the many burdens that might apply to their property. They might have an inclination to keep chickens, pigs and other forms of livestock, for example, but they might have a burden that prevents them from doing so. Although such burdens might have been appropriate at certain times in the past, it is clear that they are no longer required for many properties nowadays. I welcome the fact that the bill introduces a sunset rule that will allow the serving of notices of termination in relation to such burdens. I am sure that that will help to reduce the clogging up of titles by unnecessary burdens.

Core burdens have proved to be one of the bill's more contentious aspects. The committee

received considerable representation on the issue, particularly in relation to burdens that regulate and manage facilities for elderly people. The minister will acknowledge, as committee members did, that the rules that apply to normal community burdens do not apply in the case of core burdens. Core burdens cannot be varied or discharged without agreement by a 75 per cent majority of those affected by the burdens.

I welcome the minister's announcement that he intends to lodge an amendment that will reduce the necessary majority to about two thirds of those affected. When the minister appeared before the committee, he indicated that he was sympathetic to such a reduction. In evidence, we heard about the interesting example of residents in the Eastwood area who had been trying to change a burden and had managed to achieve a vote of about 73 per cent in favour of the change, which is a significant majority. If he speaks in the debate, I am sure that Ken Macintosh will refer to that example. I think that the 75 per cent rule would have played into the hands of managers of such developments and of management companies rather than being of benefit to the residents. The target of a two-thirds majority is probably much more achievable.

The minister referred to the right to buy and mixed tenure estates. The committee heard evidence that further clarification on that issue was needed. Members will be aware that, since the introduction of the right-to-buy legislation in 1980, local authorities have made use of title conditions to regulate the use and upkeep of properties that have been sold. The Abolition of Feudal Tenure etc (Scotland) Act 2000 will remove the feudal superior provisions, which will create problems for local authorities, although the bill will allow local authorities to save burdens by registering notice.

Professor Paisley—an expert in the field—expressed concern about the interface between the bill and the Conveyancing (Scotland) Act 1874, with which members will be familiar. Professor Paisley was keen that the matter be addressed to ensure that acts interrelate effectively. I hope that the minister will take the opportunity between now and stage 2 to ensure that there is no room for confusion in that area. If necessary, an appropriate amendment should be lodged at stage 2, to which the committee would be sympathetic.

I welcome the minister's announcement that a development management scheme will be introduced at stage 2. That is an important and significant step, as considerable concern was expressed about the matter in the committee. I congratulate the minister on trying to improve the bill further by introducing such a scheme.

As someone who does not have a legal background, I found the Title Conditions

(Scotland) Bill rather difficult. I am convinced by the committee evidence and by colleagues who have experience of conveyancing law that the bill will be an important piece of legislation and another piece of the jigsaw in the reform of property law in Scotland. I hope that members will be generous and agree to the committee's recommendation to support the general principles of the Title Conditions (Scotland) Bill.

10:01

Lord James Douglas-Hamilton (Lothians)

(Con): I declare my interest as a non-practising Queen's counsel, as an unpaid director of a family company with interests in land and as a currently unpaid executor for my father. I also mention that I worked as a law apprentice in Shepherd and Wedderburn under Professor Henry, who was a considerable expert on the subject under debate.

Like Michael Matheson, I thank Scott Wortley and the clerks to the Justice 1 Committee for their assistance—they put a huge amount of work into the committee's report.

On behalf of the Scottish Conservative and Unionist Party, I warmly welcome this stage 1 debate on the Title Conditions (Scotland) Bill. It could be argued that the bill will hardly set the heather on fire but, nonetheless, it is of utmost importance to conveyancing and legal practitioners in Scotland that Scotland should have the best possible laws. If the Scottish Parliament is to do its job properly, it must make certain that Scotland's laws are second to none. It is important that Parliament gives sufficient parliamentary time to such issues.

I welcome the bill because it addresses defects in the law. For example, the law is uncertain in various respects as to whether we can have burdens for managers or for residents associations. The law is unsatisfactory in that a burden can impose an obligation to maintain, but not to pay to maintain. There is also a lack of transparency in the registers; one can check the registers to discover what the burdens are, but not who can enforce them. There is too much reliance on implied rights. It is also difficult to vary and discharge burdens, which means that obsolete burdens clog up titles and hamper development. There is a rule that all benefited owners must agree to a discharge of such obsolete burdens. Under negative prescription, if a burdened proprietor breaches a burden and the proprietor takes no action, the burden will fall after about 20 years.

Modern practice often ignores the law because it is out of date and difficult to implement. The effect of compulsory purchase on burdens is unclear and the existence of implied rights of enforcement

means that they are often ignored in practice when interested parties seek variation of burdens. It is to the credit of the Scottish Law Commission and those who worked on the bill that many of those problems are being remedied.

It is important to see burdens in their proper context. A burden that is to the advantage of one person may be to the disadvantage of another. Where one party has the right to enforce a burden, another party is subject to it. The benefited owner might feel that his or her property value is increased if they have some control over neighbouring property. The neighbour, who is the owner subject to a burden, might resent being prevented from doing something to his or her property. We must have an appropriate balance between the rights of different parties—in the words of Isaiah Berlin,

“a balance between freedom to and freedom from, both freedoms being important.”

There are issues of great controversy in the bill. Perhaps the greatest is in section 52, which would create new enforcement rights. Its effect would be not only to create new rights in feudal estates where there may be an existing right to enforce held only by the superior, but in estates where there are no existing rights to enforce. As the minister said, legal practitioners are seriously concerned about that provision because often they have conveyed properties where no such rights existed—indeed, neighbouring houses might not have been built. Similar concerns were expressed in evidence by Bruce Merchant. It is felt that section 52 could lead to a great deal more administrative work and increasing costs, which would not be helpful.

The committee recommended that the Executive re-examine and report back on the practicalities of the new implied rights in housing estates, which is perhaps the most difficult issue in the bill. Although the arguments are relatively evenly balanced, it seems that the case for reform in that area has not yet been established conclusively. John McNeil of the Law Society of Scotland told me today—as I mentioned to the minister in an earlier intervention—that the issue needs further consideration and that the Law Society will send in further representations, which I welcome.

A second issue of contention relates to the treatment of local authorities and whether they should receive special treatment in some cases that involve the right-to-buy estates. Questions were also raised about whether they should receive special treatment in relation to clawback burdens. The committee's recommendation in paragraph 159 is that there is merit in allowing authorities to use clawback arrangements to promote the use of land for specific purposes for the benefit of the public. If such provision is to

exist for local authorities, but not for private individuals, the benefit to the public should be substantial, clearly identified and precisely defined before an amendment to that effect is agreed to.

The third issue is whether it should be easier to discharge burdens. The bill addresses the problem effectively. If I understood the minister correctly today, an amendment will be lodged to allow a community to vary or discharge community burdens by a two-thirds majority.

The committee wishes to highlight the fact that the management development scheme should be included in the bill. I am glad that the minister responded to that and, if I understood him correctly, he will lodge an appropriate amendment, although it might be necessary for additional measures to be introduced by Westminster.

The complexities of the maintenance and management of tenement properties must be left to the tenement bill, which I understand will be introduced early in the next parliamentary session. I make the request to all parties—nobody should anticipate the democratic results of the election—that the tenement bill should not be long delayed.

During the course of evidence taking, it became clear that the Abolition of Feudal Tenure (Scotland) Act 2000 will come into force once the Title Conditions (Scotland) Bill has been passed. It will assist practitioners greatly that a clear statement has been made as to the intended dates of implementation of the 2000 act and of the bill. I think that the minister said that the bill will be passed by autumn 2003 and the implementation date for both acts will be Martinmas 2004—28 November 2004. It would be helpful if a declaration of intention were given with regard to the tenement bill. If the three bills were dealt with together and came into force at the same time, that would make matters much clearer for lawyers. Not only would the law be absolutely clear, it could be applied clearly and nobody would be able to say that they were unable to fulfil the terms of the law because they were ignorant of it. That clarity would be extremely valuable.

I warmly welcome the bill, which will provide greater clarity, or increased simplicity, in the law, and a general reduction in the number of outdated conditions on land. Subject to my reservation about section 52, which I recognise is a difficult issue, I commend the bill to Parliament.

10:10

Maureen Macmillan (Highlands and Islands) (Lab): I am pleased to open the debate on behalf of the Labour party and to support Jim Wallace in commending the Title Conditions (Scotland) Bill to Parliament.

In Labour's 1999 election manifesto, we said:

"Our radical land reform agenda will be the centrepiece of our sustainable development programme. We will bring forward early legislation to abolish feudalism once and for all."

That is what we are delivering, in partnership with our Liberal Democrat colleagues. The Title Conditions (Scotland) Bill is part of the tranche of land reform legislation that has been one of Labour's priorities for this parliamentary session. It forms part of the jigsaw of legislation that will bring land holding out of feudalism and into the 21st century.

The bill follows on from the Abolition of Feudal Tenure etc (Scotland) Act 2000, and it is progressing through Parliament contemporaneously with the Land Reform (Scotland) Bill, which will enable communities to purchase the land that they live on and develop it for their own benefit. It will be followed by the tenement bill. I believe that that package of legislation will be looked on in future as one of the great achievements of this Parliament. It is an achievement that I firmly believe could not have happened without the Scottish Parliament, which was created because of the commitment to devolution of the Labour party and our coalition colleagues.

The publication of the Title Conditions (Scotland) Bill was described by Professor Roddy Paisley of the University of Aberdeen as

"one of the Scottish Parliament's finest hours".—[*Official Report, Justice 1 Committee*, 3 September 2002; c 3914.]

That caused some surprise and hilarity among members of the Justice 1 Committee, because we were certainly looking on it as a long and difficult piece of work. People who are steeped in conveyancing seem to believe that we are doing something extremely special, and the bill has been generally welcomed by all who have given evidence to the committee.

Although the bill's general principles have been warmly welcomed, considerable concern has been raised about certain issues, as other members have said. There is concern about some of the detail, and fears have been expressed that certain elements of the bill—particularly where it is at variance with the Scottish Law Commission proposals—will prove not to be practicable when properties are bought and sold, especially on those housing estates that would come under the definition of communities. Lord James Douglas-Hamilton and others have outlined those concerns about section 52.

The bill would replace feudal conditions that benefited a feudal superior with conditions that will benefit neighbours or the wider community of the housing estate. Tenants and non-entitled spouses,

as well as the owner of the property, would be able to enforce those conditions. If the owner of a property wished to have a condition removed, he or she would have to apply to their immediate neighbours for agreement and advertise the application to the rest of the housing community or seek majority agreement.

In principle, both the extension of rights to tenants and the need for agreement of the housing community to changes to a title condition are excellent, socially inclusive measures. After all, tenants are affected when title conditions are broken. However, practising solicitors have pointed out that those new proposals, together with implied rights, could prove problematical in certain circumstances when a house on a housing estate is sold. In a community of about 200 houses, there would be 200 owners, tenants or entitled spouses.

The Scottish Law Agents Society was concerned that retrospective rights were being created. Those concerns were brought to the committee's attention by Bruce Merchant of South Forrest solicitors in Inverness, and I have been contacted by several other firms of solicitors who foresee similar problems. They believe that, if a house owner who has broken a title condition subsequently puts their house up for sale, retrospective permission would have to be sought, not from one feudal superior but from the whole housing community, some of whom may be tenants or non-entitled spouses, who would not appear on any register and would be difficult to trace. Seeking that retrospective permission would be time consuming and expensive for the solicitor acting for the seller, particularly if the Lands Tribunal for Scotland were to become involved. The solicitors believe that such circumstances would not be unusual. One solicitor said that he would expect to handle one such case a year—multiplied across Scotland, that is not an inconsiderable number.

At a time when the Executive is seeking to simplify the process of house purchase in Scotland, the proposals in the detail of the bill may serve to complicate some transactions and make them more expensive. I ask the minister to examine how the effect of the bill on the practicalities of conveyancing might be mitigated. Solicitors fear that, in the absence of a register of tenants, they would be unable to guarantee title, because the seller would be unable to give the buyer a guarantee that there were no objections to the breaking of the title conditions. I ask the minister to consider whether those concerns can be addressed at stage 2.

Other issues were raised in evidence to the committee; other members will outline those concerns in more detail. The most prominent

concerns were raised by the Sheltered and Retirement Housing Owners Confederation, which asked for a re-examination of the conditions that pertain to sheltered housing. The minister has done that, and I welcome his announcement. Owners of houses in such complexes want more control over their management, which seems to them not always to have the interests of the residents at heart. My colleague, Sylvia Jackson, hopes to address that matter later in the debate.

Local authorities and others have raised their concern that the development management scheme proposed in the Scottish Law Commission's draft bill has not been included in the Executive's bill. I understand that that decision was made partly because the proposal touches on a reserved matter and I welcome the minister's announcement about it.

How best to manage schemes and estates, whether they are owned or tenanted, is a perennial problem. I know that Elaine Thomson is particularly concerned about it and that she has had lots of representations from constituents in Aberdeen on the matter.

The bill is highly technical. I was particularly delighted with one piece of colour in the bill—the sunset clause, which Michael Matheson mentioned. At least that would be pink, orange or some other nice colour. I had a vision of a mule, weighed down by feudal burdens, going off into the sunset, a bit like John Wayne—although it was actually going to take 100 years for it to disappear over the horizon. That is what the sunset clause is: a provision that 100-year-old burdens can finally be abolished. I was quite amused that the lawyers seemed to think that 100 years was just the blink of an eye in legal terms. In fact, the Scottish Landowners Federation thought that a period of even more than 100 years might be appropriate for burdens in the countryside.

Michael Matheson: The SLF is a radical organisation.

Maureen Macmillan: Yes, it is very radical.

As I said, the sunset clause is the one piece of colour in otherwise highly technical legislation. I thank our adviser, Scott Wortley. His is a wise head on young shoulders and he is very enthusiastic about the bill. He certainly managed to enthuse us at times when we were holding our heads and saying, "I don't understand it. I understood it last week, but I don't understand it this week." I hope that the committee has done its best to tease out the details and make recommendations that will improve the bill. I also thank the committee clerks for their sterling work. They work day and night, I think. I do not know whether they ever sleep. They have produced a wonderful report and have been a great help to us all in our way through the bill.

Finally, despite the concerns of detail that I have raised, I return to my opening statement of support for the bill. I hope that the concerns that I have mentioned can be dealt with at stage 2, and I urge Parliament to agree to the general principles of the bill.

10:19

Christine Grahame (South of Scotland) (SNP): I thank the Justice 1 Committee clerking team for their stalwart efforts, which go on in the background. I also thank Scott Wortley, who was so enthusiastic that it was almost contagious. I say "almost", but I could not quite join in. When Donald Gorrie, the man himself, expressed his dismay that the debate was originally scheduled to last for three hours—dismay that was shared by all committee members—I knew that I had to move to truncate it.

My clerks, who helpfully bullet-pointed the issues associated with the bill, began, with the honesty of clerks, by saying that the bill is complex and technical. Indeed it is. Worthy the bill undoubtedly is, but, my goodness, apart from a few excited academics, it was a test of our concentration and stamina, but the Justice 1 Committee came through. It surprised me to learn that the stage 1 report has been a sell-out, with 38 copies gone and 10 on order. Those who replied to my e-mail yesterday about who possesses that worthy work can be assured that I will not out them.

I will proceed to the bill's merits, fellow anoraks. The bill is complex and technical and seeks to update the law relating to property. It is intended to make conveyancing simpler and to make it easier for people to alter title conditions relating to their property. Without its passage, the comparatively more exciting Abolition of Feudal Tenure etc (Scotland) Act 2000, to which the minister referred, would not reach its appointed day. I note the date 28 November 2004 and share my colleague Fergus Ewing's concerns about the delay and the fact that there will be money to be made in the intervening two years. Fergus Ewing will no doubt develop that point.

A remarkably high number of submissions—486—were received as a result of the committee's general call for evidence; that gives members a measure of the clerking work that was involved. Admittedly, that number was due substantially to fierce lobbying by those living in sheltered housing or retirement developments. I note the minister's remarks in that regard.

The committee thoroughly scrutinised the bill, which is densely woven—to some of us, it is sometimes more dense than it is woven. Through their oral evidence, academics, practitioners, housing associations, property managers, public

bodies and representative groups such as Age Concern Scotland helped the committee to delay the bill and measure its practical effects. We published our stage 1 report on Monday 18 November. Despite the bill's technicalities, it is a human bill.

The bill could be described as non-contentious, as it received widespread support, but members considered a number of smaller issues that divided the individuals and groups who were interested in the bill. Although the committee considers that there was general support for the principles of the bill, it is incumbent on the committee to delve further, as the bill is far reaching and will affect many people in Scotland. The bill will affect not just property owners, but tenants and non-entitled spouses—a complex term that usually means a wife who does not have her name on the title deeds.

How will the bill affect people? Most properties have conditions attached to them that are set down in the deed of conditions. Previously, people could enforce burdens only if they were the registered owners of the property. The committee is pleased that the Executive has extended that right to non-owners, such as non-entitled spouses and tenants. The Deputy First Minister ably explained the matter in trying to jolly us along through the densely woven bill. He gave an example of

“a tenant who happens to have a family with young children and whose burden says that they cannot keep pet dogs or Rottweilers. If the person next door decides to keep Rottweilers, the tenant probably has much more direct interest in enforcing that condition, or burden, than the landlord or the owner.”—[*Official Report, Justice 1 Committee*, 1 Oct 2002; c 4071.]

The committee wrestled with many of the legal concepts in the bill, such as acquiescence. I am reasonably familiar with that concept, as are some colleagues from another committee who are here today. I will explain. Imagine the benefited proprietor in the red corner—I have to use such technical terms—who is the property owner and is entitled to enforce a burden. Imagine the burdened property owner in the blue corner—the burden is that he cannot keep homing pigeons. In the red corner, the person does nothing for years and the pigeon fancier may live happily ever after with his billing and cooing companions. I am trying to make the bill interesting. On the other hand, he might not. The question may have been asked, “Have I acquiesced or have I not acquiesced to his pigeon loft and its contents?” By the insertion of time limits to object, the pigeon fancier will know where he stands. That is what the bill seeks to do with regard to rights and duties: it seeks to avoid unnecessary stairhead rammies, although I suspect that there are no pigeon lofts on stairheads.

That brings me to tenements. I fully endorse what Lord James Douglas-Hamilton said. It would be useful if the law relating to tenements could be implemented so that tripartite legislation would come into force at the same time. Many people think that the bill affects the law relating to tenements, but it does not.

There was fierce lobbying from owner-occupiers of sheltered accommodation—the minister has addressed that issue. Other issues that were discussed in the committee were the nature of conservation burdens; the designation and nomination of conservation burdens; an increased role for the Lands Tribunal for Scotland, which says that it does not need more money—we will see; development value burdens; clawback; and possible reform of standard securities legislation, which has been mentioned.

Some witnesses sought to reopen the argument surrounding the provision that is known as the 100m rule, which provides that where a superior has a building that is used for human resort or habitation on neighbouring land and if that building is within 100m of the burdened land, the burden can be preserved by registering a notice. Some colleagues remain unhappy about that matter. The Abolition of Feudal Tenure etc (Scotland) Act 2000 fixed the distance at 100m in contrast to the common-law position, which relied on only two cases, both of which were from Aberdeen. Professor Paisley told the committee that only one of the cases made much sense, which indicated that the burden should be checked by reference to the type of burden. He recalled that

“someone in Aberdeen tried to set up a chip shop frying garlic pizzas. The people who lived within smelling distance downwind had an interest. The distance could vary from day to day”

and could be much further than 100m. He continued:

“For someone who was upwind it would be zero ... Implementing such a vague rule does not work.”—[*Official Report, Justice 1 Committee*, 3 Sep 2002; c 3926.]

This is a heavy debate, but I will end on a light note. I am told, although the story may be apocryphal, that, rather like a latter-day Archimedes, Professor Kenneth Reid, erudite professor of conveyancing at the University of Edinburgh, came up with the 100m rule while he was swimming in the Commonwealth pool. He calculated each length to be 25m. On his fourth length, he thought “Eureka—that is the correct distance for the legislation.” Not a lot of people know that. However, each length is 50m, so an amendment from the professor would perhaps be appropriate.

We support the bill.

10:26

Dr Sylvia Jackson (Stirling) (Lab): I wholeheartedly welcome the bill, the committee's recommendations and the minister's comments this morning, particularly on the issues that have been raised by my constituents individually and through the Sheltered and Retirement Housing Owners Confederation. In particular, I thank Marie Galbraith and John McCormick for their help. Both have worked through SHOC and have given evidence to the Justice 1 Committee. I hope that they are in the gallery.

I welcome the Justice 1 Committee's report. Christine Grahame alluded to a separate review of the operation of sheltered housing developments in Scotland. I noted that the minister said that he did not think that such a review was needed at the moment. However, in the light of the minister's welcome comments this morning, I am sure that SHOC will discuss the matter further and decide whether we need to press on that issue.

The first issue that I would like to mention is definitions. Section 50(3) of the bill gives a definition of "sheltered housing development". The minister said that he is now happy that that definition be extended. John McCormick suggested that the words

"also known as retirement housing or retirement accommodation"—[*Official Report, Justice 1 Committee, 10 Sep 2002; c 3983.*]

should be added, and I would like confirmation from the minister that he is thinking of that addition. John McCormick explained that if a lawyer excluded the words "sheltered housing accommodation" from the deeds of condition, retirement homes could find themselves outwith the bill. It is therefore important that we ensure that that issue is addressed.

Perhaps there needs to be a tightening up in the bill of the definition of the word "manager". I have listened carefully and the phrase "management company" has often been used. I gather that that is the phrase that most people would prefer to use, as a manager can be confused with a warden.

The committee recommended the model development management scheme. Everybody seemed to be positive about that. The minister's comments on that issue and on how we will work with Westminster in order to progress quickly were most welcome. I understand that the development management scheme will be the template for how owners and the factor will operate and how financial transparency, which is obviously needed in relation to maintenance and other services, will be increased.

I hope that we can end all the difficulties that have arisen with my constituents, who have worked through those difficulties with SHOC. John

McCormick identified two issues in the model development management scheme. First, there might be a clash between rule 4.2 of the scheme—which states:

"The association may at a general meeting remove the manager from office before the expiry of his term of office."—

and the contractual arrangement that could be in place for the warden. Perhaps the minister will comment on that.

Secondly, I gather that the scheme could conflict with the 10-year rule, which we have heard about. SHOC would like that period to be reduced to three years. The minister might like to comment on that—perhaps I missed remarks in his opening speech about how the period would be reduced from 10 years.

The minister said that he did not think that there was a need to insert a minimum age of 60 years. I take his point that sheltered housing covers a large number of things, but I wonder whether it might be appropriate to include a subsection that deals with retirement housing and which could include the minimum age of 60. Such a provision would get over some of the issues about the majority ruling. I welcome what the minister said about reducing the majority from 75 per cent to two thirds.

10:31

Phil Gallie (South of Scotland) (Con): As I am not on the Justice 1 Committee, which is considering the bill, I am grateful to Christine Grahame for trying to clarify it. At least I think that I am grateful—I thought that I had a rough grasp of the matter, but it gave me some difficulty when she started talking about red corners and blue corners, as I found myself with a constituent in the red corner.

I was involved in the Justice and Home Affairs Committee before it disintegrated to form two committees in order to get more bills through the Parliament. I remember saying, when we were dealing with the Abolition of Feudal Tenure etc (Scotland) Bill, that it would be better had the three bills—on abolition of feudal tenure, title conditions and tenements—been put together. That seemed to make sense at the time. We talk about simplicity with respect to the Title Conditions (Scotland) Bill, but I believe that we will cause complication in the legal system in the future, as three bills will have to be referred to rather than one. The fact that all three bills will be implemented on the appointed day, which the minister announced today, emphasises that there was some justification in the suggestion that the three bills should go together.

In the main, I agreed with Maureen Macmillan's comments, but I take up one minor point with her.

She said that this Parliament had delivered. In fact, that is not the case; the Parliament that is elected in 2003 will deliver on the issues. We have laid the groundwork for delivery in the next parliamentary session. The Conservative group sees those three bills as all-important, and I give the Presiding Officer an undertaking that if we form the Executive in the next parliamentary session, we will give them high priority.

The issues relating to sheltered housing are very important. Problems were brought to me—even before the setting up of the Parliament—by owner-occupiers in sheltered housing complexes who felt that they could not control their own destinies in respect of the properties that they owned. They felt that management companies did not provide owner-occupiers with the detail; all that the companies expected was that the money was paid to them. There were deficiencies in the system. I recognise that the developers played the system. Frequently they maintained ownership of a unit so that they could maintain the factor's responsibility for the complex into the future. In one instance, a developer and management team refused to release to the owners details of the contractual arrangements that had been set up between the two parties. Fifty per cent of the funding requirement from the owners towards their fees for the complex was used to pay the manager and to pay management fees that were never explained to the owners. If the Title Conditions (Scotland) Bill helps to clarify that aspect, it will have achieved much. Just as I believed that the Abolition of Feudal Tenure etc (Scotland) Bill had much to offer, I believe that this bill is setting the pace for the future and is very welcome.

People who have developed estates often place restrictive conditions on those who have bought properties within them. We must deal with the lack of flexibility in those conditions. A constituent told me of a case in which an individual was intent on putting up a very low hedge along the edge of his garden, but that was not permitted under the terms of his purchase. The developer pointed out that if the individual were to go ahead, the developer would have the right to pull back ownership of the purchaser's building. That does not seem right. I believe that the bill will address such idiocies.

10:36

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I welcome the opportunity to speak in the stage 1 debate on the Title Conditions (Scotland) Bill. There has been much interest in the legislation in parts of my West Aberdeenshire and Kincardine constituency. I will focus upon the sections in the bill that deal with sheltered housing and, specifically, with the management of sheltered housing developments.

The bill defines sheltered housing developments as

“a group of dwelling-houses which, having regard to their design, size and other features, are particularly suitable for occupation by elderly people ... and which, for the purposes of such occupation, are provided with facilities substantially different from those of ordinary dwelling-houses.”

Sylvia Jackson shares my concerns over definitions. However, I note that the Justice 1 Committee states in its report to Parliament that it

“is satisfied that the definition of ‘sheltered housing development’ covers retirement accommodation.”

That is an important point and one which I very much welcome, because I was concerned that not all types of retirement accommodation would be covered by the bill.

In my constituency, we are fortunate to have an almost unique retirement development at Inchmarlo, outside Banchory, in Royal Deeside. It is an extremely well-run and very attractive place to live. The development is designed for the over-55s and, to quote the bill, it has

“facilities substantially different from those of ordinary dwelling-houses.”

The home owners of Inchmarlo are in a different situation from what might ordinarily be considered to be the situation with owner-occupied sheltered housing. Although each resident of the Inchmarlo community owns their own home and the land immediately surrounding it, they do not own the communal grounds or the facilities that are available. The common ground and the surrounding facilities are managed not by the individual property owners, but by a separate management company that is owned by the developer.

I emphasise that the current developer manages the estate very well and ensures that Inchmarlo is a thoroughly attractive place to live. However, several of my constituents have approached me because they are concerned not about the current management of Inchmarlo, but about what might happen to the estate in the future.

At first sight, the bill appears to give the residents of Inchmarlo the opportunity to vote by two-thirds majority to dismiss the manager and appoint a new manager, even if the titles provide otherwise. My question to the minister is simple and straightforward. Can he assure me that, as a result of the bill, the resident owners of houses and apartments in the Inchmarlo residential complex in my constituency will have the same rights and obligations as other owners of more typical sheltered housing developments elsewhere in Scotland? Will they be able to form an owners association, which will, under the terms of the bill, have to be recognised by the developer? Will they

have the legal right, subject to a two-thirds majority of all owners, to replace the manager even when they do not own the ground that the developer manages on their behalf?

So far, I have been unable to get answers to those important questions. I would welcome comments from the minister and committee members on whether that will be the case under the bill, or whether they believe that amendments will be required to ensure that those rights and obligations are available to my constituents who reside in the Inchmarlo complex. Members should remember that those residents do not own the communal facilities, which are owned and managed by the developer. I would like a response on those questions.

10:40

Elaine Thomson (Aberdeen North) (Lab): I am pleased to support the Title Conditions (Scotland) Bill, which, as other members have said, is one of several pieces of legislation, including the Abolition of Feudal Tenure etc (Scotland) Act 2000, that aim to modernise and transform property law in Scotland. I welcome the Scottish Executive's commitment to introduce, as early as possible in the new parliamentary session, a third bill, which will update the law of the tenement.

Maureen Macmillan said that the University of Aberdeen is enthusiastic about the modernisation of the legislation, which does not surprise me, given the difficulties that exist in Aberdeen with tenements and with other issues that are associated with common property. I, too, welcome the modernisation of the legislation. The bill is technical and the Justice 1 Committee is to be congratulated on its work. There is wide consensus on the bill and many of the organisations that were consulted support it. The bill begins to realise some of the wider hopes about what devolution should achieve. We should congratulate the Sheltered and Retirement Housing Owners Confederation on its involvement with the legislative process and on engaging with MSPs to make absolutely sure that we understood the issues.

My particular interest in the bill comes from my experience and that of the many constituents from different parts of Aberdeen who have contacted me. Many of my constituents have run into the difficulties that can occur in retaining or repairing common property and unadopted land. Recently, a group of owners on an estate in Aberdeen encountered difficulties when they were presented with large maintenance bills. The homes on the estate were built originally as Scottish special housing, following which the estate was passed to Scottish Homes and then to a local housing association. In time, most of the properties were

bought under the right to buy. Associated with the properties is a continuing responsibility for paths, streetlights and various other items on unadopted land, but many of the people who purchased their homes were not fully aware of their responsibilities for those common areas. That is why I welcome the detail in the bill, which will mean that common burdens should be made more explicit in title deeds.

Given the increasing number of home owners in Scotland, it is ever more important to ensure that people are fully aware of their rights and responsibilities with respect to property ownership. I welcome the introduction of clear guidance on the definition of community burdens and the provision for communities of a way forward in arranging community repairs. I support the Justice 1 Committee's wish to introduce model development management schemes and I welcome the minister's statement that the Executive will lodge amendments on that issue at stage 2.

The inability to progress common repairs is often a result of legal complexities and the requirement to have the agreement of all owners before going ahead. Those factors undoubtedly lead to the deterioration of property throughout Scotland, particularly older tenement properties. The provision to allow communities to proceed with repairs on the basis of a majority vote rather than the agreement of all the owners is a step forward, as is the ability to ask people to give a deposit on the payment for any work.

The changes that I have mentioned must be accompanied by the new legislation on tenements. I urge the minister to ensure that the housing improvement task force considers closely the difficulties that are encountered with the maintenance and repair of common ground and buildings, whether that involves grass, paths or common stairs. I support the bill.

10:44

Tricia Marwick (Mid Scotland and Fife) (SNP): I begin with the disclaimer that I am not a lawyer, nor am I a member of the Justice 1 Committee. However, I inform members that, since Friday, I read every piece of information on the bill. Indeed, I am the anorak to which Christine Grahame referred.

It is a pity that Mike Rumbles has left the chamber, because he raised the same issue that I want to raise with the minister. I read all the material because I was visited by a number of constituents from a new housing estate in Markinch, who are concerned about the management of the green space on the estate. The developer has sold the green space to

another company, which means that the owner-occupiers in the estate do not own it. Under the existing deeds, the owner of the green space can levy an annual charge on the owner-occupiers to allow maintenance work to be carried out. However, the owners have no control over how much money is extracted from them or over the level of maintenance of the green space.

Naturally, my constituents are concerned that, because the annual charges are in the hands of the owner of the green space, they might go up and up. Will the minister say whether such issues are addressed in the bill and how they can be resolved on behalf of the owners of houses in such estates? How can my constituents influence the developer or the owner of the green space and have some control over the annual charge that is levied? How can the owner-occupiers monitor whether the maintenance work is carried out?

Another problem for some of my constituents is that they believe that the conditions that are laid down when buying property are restrictive. The minister said that he cannot sell alcohol and Phil Gallie mentioned the restrictive conditions in deeds. The bill allows for deeds to be registered, but where is the provision to allow conditions to be varied? I hope that the minister will address the problems that my constituents have raised in his summing-up speech. The problems are not confined to one area of Scotland—Mike Rumbles made it clear that constituents in his area are worried about the future. As new housing estates are built all the time, the issues might become a problem in the future. I would be grateful for any comfort that the minister can offer to my constituents in Markinch.

10:48

Mr Kenneth Macintosh (Eastwood) (Lab): I will not pretend that I found it easy to wade through positive servitudes, servient tenements or negative prescriptions, and I take my hat off to the members of the Justice 1 Committee in recognition of their efforts. However, although the bill's language is obscure, its purpose is not. The bill will improve the quality of life for many people in Scotland by giving people of all ages greater control over their property. I will focus on one of those groups: people who live in sheltered and retirement housing.

When people buy into a retirement complex, they often imagine that they are buying security and peace of mind; they assume that the developer, factor or manager will have their best interests at heart and will look out for them. All too often, that is not the case. Instead of security, residents face a culture of bullying and intimidation. The evidence to the Justice 1 Committee is littered with examples of that. It is

unacceptable that people who own their homes and pay additional costs for services are not consulted on those services, have no power to control them and have no method of holding management companies to account.

The bill addresses those concerns and I am pleased that the Executive has responded favourably to the Justice 1 Committee's report, which takes matters further. However, I take issue with the bill's use of the term "sheltered housing", to which my colleague Sylvia Jackson and others have referred. The main issue is the absence of the term "retirement housing".

The phrase "sheltered housing development" is used to cover both sheltered and retirement accommodation, but that is not how sheltered housing is perceived, nor how the phrase will be understood. At a meeting in my constituency a couple of weeks back, residents from a retirement complex who were finding out about the bill for the first time had to be persuaded that the term "sheltered" covered them. The difference between the two types of housing is fairly straightforward. Retirement housing is for older people; sheltered housing could be for older people, but it could also be for younger people who are disabled, infirm or vulnerable.

In the committee, the Executive argued that certain categories of people—disabled, infirm or vulnerable people—could be excluded if the provisions of the bill applied solely to retirement accommodation. No one has ever argued that the bill should apply solely to retirement housing. The bill should not apply to either sheltered or retirement accommodation; it should apply to both sheltered and retirement accommodation. If the Executive accepts that that is the case, it cannot oppose the use of the word "retirement" on the ground that it is exclusive.

The avoidance of misunderstanding is not the only reason why it would be helpful to use the phrase "retirement housing" in the bill. The fact is that most owners of retirement flats are not infirm or vulnerable. In most cases, residents have to prove that they are reasonably fit and able to live independently. That stipulation is often written into their deeds and conditions. I am concerned that there is an assumption throughout the bill—implicit rather than explicit—that older people need to be protected. That assumption was also apparent in some of the evidence that was submitted to the committee. We all need the law to protect us, but most retirement home owners are quite capable of looking after their own interests and do not need someone else to do so for them.

It is interesting that one of the arguments that was put forward by the property developers and management companies is that people who live in retirement complexes need to be safeguarded

against the younger element. The argument is made, especially in support of the appeal for a 75 per cent voting threshold to protect core burdens, that there may be a bunch of radicals who could act against the interests of the older, more timid but silent majority. It is also interesting—if not downright contradictory—that the same companies are the ones who are suggesting greater flexibility over the age restriction that is written into the core burdens. The owners want the age restriction to be 60, whereas the developers are suggesting a younger age.

Brian Adam (North-East Scotland) (SNP): Has the member given thought to whether developers who continue to own properties and rent them out should have voting rights? The managers who manage the properties may also be owners and exercise those rights. Does the member think that that should be reflected in consideration of the appropriateness of a majority and the size of that majority?

Mr Macintosh: I do not have the time to develop that important point, much as I would like to. The restrictions on voting are crucial to the bill and a degree of clarity is needed.

Older people do not need anybody else to protect them: they can protect themselves. All the stories that I have heard from retirement complexes reveal that the only people who always protect the needs of the residents are the home owners. I have yet to hear any evidence to suggest that retirement home owners have ever introduced proposals in any complex to weaken the management or maintenance of services for older people. It is not the residents who cut back the number of hours that are worked by the warden or who save money on catering by reducing meals to a couple of fish fingers and some beans. The only reason that I can find for a 75 per cent voting threshold is the protection of the interests of the management companies, and I welcome the Executive's commitment to revise that figure downwards.

As Brian Adam suggests, there are other issues. For example, will an abstention be counted as a "no" vote? Those of us who remember devolution and the notorious Chandos amendment will wince at the thought of repeating any such undemocratic technique.

There are many aspects of the bill with which I am pleased, and I am pleased with what the minister has said. However, I am disappointed that he will not reconsider the need for an overall review of sheltered housing. Many issues outwith the scope of the bill must be considered. Nonetheless, the bill is a major step forward and I look forward to working with colleagues from all parties to bring it into statute.

10:54

Donald Gorrie (Central Scotland) (LD): I add my thanks to all those who did the hard work behind the scenes in the consideration of the bill.

By an agreement with the excellent pupils of St Ninian's Primary School in Stirling, who want us all to use Scots, I am obliged to introduce the words *sook* and *fushionless* into my speech. First, if I pay tribute to the minister for the important changes that he has announced today, I will not be considered a *sook*. He has responded in a very good way to the efforts of the committee to scrutinise the bill. Secondly, it shows that the system works: a committee of people, who are very far from expert on the subject but very far from *fushionless*, can seriously scrutinise a bill by listening to people who are expert, and by bringing common sense—or "non-*fushionlessness*"—to the subject. Without being complacent, the system has been shown to work.

One great pleasure of dealing with the subject was that it was not a party issue. We all developed into a strong, pro-sheltered housing group that crossed all political parties. It is evident that things are not yet absolutely clear, so the minister's comments are very welcome, although amendments may need to be considered on that point.

The basic issue behind the bill is the balance between the rights of the individual and those of the community. The bill also covers people's rights to neglect their own property, which, as a councillor, has frequently astonished me. It seemed to be a big part of British law that someone could totally neglect his or her property until it severely impacted on a neighbour. I always used to suggest to neighbours that, if they could see a rat, they might have some redress, although even that failed sometimes.

We are trying to say that people do not have an unqualified right to neglect their own property. They must consider other people's properties, whether they are mixed blocks in council housing areas, where some have been bought and some have not, or tenements. I am still unclear about tenements, but I understand from the minister's comments that there is some protection for people in tenements to get things done. If the deeds are silent about common repairs, there is a default provision that helps the majority to secure repairs. It would be very helpful to pursue that. I understand that there must be a separate bill, but common repairs are a major issue, certainly in cities where there are many tenements.

Councils and default provisions are another issue. In the past, there was concern about controlling those councils that were buying ground, possibly in a bad way. Currently, the issue is of

councils selling ground, possibly in a bad way. Some protection against that is wanted. Councils are also going into joint ventures, which is a good thing, but that raises many issues about councillors' rights to give opinions and participate in planning decisions. All that must be dealt with, as it impacts slightly on the bill.

On the whole, the bill is very successful in achieving its result. Along with the tenement bill, the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the forthcoming bill on the feudal system, it has made a big change. Minor improvements will be necessary at stage 2, but it has been very successful, and I commend the minister.

10:58

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Donald Gorrie mentioned that the pupils of St Ninian's Primary School, Stirling, have invited us all to adopt a Scots word. My word is "bluffleheid", which describes a person who has a very large head, but a tiny, wee brain. I am looking around me—

Tricia Marwick: Do not fix your gaze.

Fergus Ewing: Perhaps the phrase

"Judge not, that ye be not judged"

is one to which I should pay due regard.

I declare an interest as a practising solicitor, although I have absolutely no interest at all in adding to the 20 years that I have spent poring over old feu conditions, feu contracts and contracts of ground annual, especially those written in spidery handwriting. It may not surprise members to learn that after the invention of the typewriter, Scots lawyers, being an innately conservative bunch, decided to wait 10 or 20 years to check that the typewritten text would not fade and continued to use ink long after the invention of the typewriter.

That general approach characterises the excellent advice on which we acted to produce an excellent bill. I say that now because I want to move on to aspects of the bill that I think can be improved.

The conservative approach has cost us. For example, the Conveyancing and Feudal Reform (Scotland) Act 1970 was the first attempt to allow a legal process by which unreasonable and unfair conditions that impacted on people's lives could be discharged. However, that act did not go far enough. It was timid, unfair and paid undue regard to the interests of feudal superiors, but insufficient regard to the interests of ordinary mortals such as you and me, Presiding Officer.

Since I was elected I have been inundated by communications from constituents who complain,

for example, that they want to put an extension on their house or make an internal alteration but suddenly find that they must get the permission of some feudal superior somewhere.

I see John Home Robertson nodding sagely. I imagine that he knows a bit about feudal superiorities.

People find that they are asked to pay £250 or £500 just to get a wee letter saying that they can go ahead and replace their toilet or build an extension. Perhaps more serious is the situation of people who own a large piece of ground. For example, a widow who wants to sell half the feu to pay for a decent life in retirement finds that the feu superior comes along and asks for several thousand pounds.

Murdo Fraser: Will the member give way?

Fergus Ewing: Certainly.

Murdo Fraser: I sympathise with Mr Ewing's constituents. However, does he agree that the worst offenders for demanding payment for waivers are local authorities?

Fergus Ewing: I could not compete with Mr Fraser in ascribing guilt among various parties.

The question is whether the combined effect of section 18(7) of the Abolition of Feudal Tenure etc (Scotland) Act 2000 and section 81 of the bill goes far enough. I do not think that it does. The problem is that feudal superiors will be abolished, but their rights will live on if they can register a notice. On what criterion have we allowed the feudal superiors to survive and exercise those powers? The answer is, on the basis of the 100m rule. If feudal superiors have within 100m of their land

"a permanent building which is in use wholly or mainly as a place of human-

(i) habitation; or

(ii) resort",

then they can serve a notice.

In most parts of rural Scotland, feudal superiors who own estates will usually have such a building within 100m of the estate. Therefore, those people can serve a notice and seek compensation under the terms of section 81 of the bill. The Lands Tribunal continues to be entitled to award compensation. I am pleased that there is an impediment, which is that the payment of compensation will only be on proof of "substantial loss or disadvantage". However, I would urge the minister to go a bit further.

I was interested to hear that the Queen has dispensed with her royal prerogative and has perhaps ceded some interest in rights or property. I was surprised that a more formal motion or procedure was not allocated to ensure that that

was done. The Scottish Parliament has Sewel motions for the transfer of powers from the Scottish Parliament to Westminster. The Scottish National Party opposes Sewel motions, but perhaps we should introduce a different motion for the Queen's ceding of interests. If we do, we can perhaps call it a Burrell motion.

The Deputy Presiding Officer (Mr Murray Tosh): We go now to closing speeches. I call first Wendy Alexander from the Labour party. I will give you four to five minutes, which is what speakers had in the opening round.

11:03

Ms Wendy Alexander (Paisley North) (Lab): As my committee colleagues on the Justice 1 Committee have highlighted, the bill was incredibly complex and proved a challenge to us all. We only rose to that challenge because of the help of our clerks and, indeed, our advisers. I add my word of support to them for their efforts.

In summing up for the Labour party, members might be relieved to know that I want to look at why the bill matters for those who have no appetite for the detail. The Scottish Parliament has taken another battering this week about a building burden of its own. I read this morning's tabloids over breakfast and, inevitably, angry from Anstruther and outraged from Auchtermuchty were having a field day.

Tricia Marwick: Will the member give way?

Ms Alexander: No, I do not have time.

I safely predict that the only way in which the bill could possibly have in tomorrow's tabloids the sort of coverage surrounding building burdens that we have seen this week would be if our nearest prospective neighbour in Holyrood Palace decided that they wanted to explore the real burdens on the new Parliament building.

Whatever the reaction outside the chamber, it is important for those of us in the chamber to restate why the bill matters. Of course, the *raison d'être* of the Parliament is in part to modernise the law of Scotland. We found ourselves in the increasingly anachronistic position of having retained our own law in Scotland without having our own legislature. After 300 years, there is a bit of tidying up to do. The bill definitively proves that we are getting on with the job.

The other hopes for the Parliament are in the areas of Scottish lawmaking and the development of Scottish politics. It was hoped that perhaps occasionally we would listen to those who knew what they were talking about. The bill is the pre-eminent example of how to get that right. The bill provides everything that people wanted and experts from the Scottish Law Commission took

the lead in that process. The Scottish Executive listened, the Justice 1 Committee operated on a powerful cross-party basis and ordinary Scots had the chance to have their views heard on issues such as sheltered housing. The bill proceeded as it was intended to.

A mere three or four years ago there were pre-devolution fears that said, "Och, if we try and have a parliament there will be all that wrangling with Westminster and you'll never get it sorted out." We heard earlier in the debate that again we have been able to reach agreement with Westminster and that it will be possible to introduce the development management scheme, which will let us move forward.

That brings me to the development management scheme itself. The success of the Scottish Parliament, as with any other parliament, should be about the extent to which we use the power of the law to support the most vulnerable in our society. It is not just about the highest profile measures, such as the provision of central heating or free bus travel. Those could come and go from one Administration to the next. The point is that the law should protect the most vulnerable. On that point, I think that those who are more frail, and are tenants of sheltered and retirement housing, can feel encouraged.

At this point, I will invoke my Scottish word, which is "canny". As a Labour MSP, I suggest to a Liberal member of the Executive that he should be canny and shy away from imposing any artificial referendum thresholds. The Cunningham 40 per cent rule did not serve the Labour party particularly well. I do not think that the 75 per cent majority required for common repairs will serve us well.

The question that will continue to be asked over the next 10 years is: "What has the Parliament ever done for us?" I guarantee that if we walked out into the street, we would hear that question. The bill, as we heard earlier, is one of several on property and land reform in Scotland that will fundamentally change Scottish life and society, because the key issue for rural Scotland is how people can take a greater sense of ownership of their lives, communities and futures.

On urban Scotland, I do not think that there is anyone who does not believe that finding a way to rebuild fractured communities is at the heart of what the Parliament is about. Of course, the bill makes it possible for there to be common burdens, but it puts on the agenda the issue of our responsibilities to our neighbours in the community.

Yes, the bill is technical, tough and arcane, but it is one piece of the jigsaw that will mean, as Fergus Ewing said, that instead of Scotland

modernising itself despite a desperately dated legal system, we can modernise ourselves through a forward-looking, simplified law of Scotland that is in the interests of the people of Scotland. That is why we are here as MSPs. We were created to do that. I commend the bill to the chamber; it is a step forward on the journey.

11:10

Murdo Fraser (Mid Scotland and Fife) (Con): I should start by declaring an interest as I am a solicitor, albeit not currently a practising one, and a member of the Law Society of Scotland.

Earlier, James Douglas-Hamilton indicated that the Conservatives would be supporting the Title Conditions (Scotland) Bill at stage 1, as we regard it as a welcome and necessary piece of law reform. It is worth considering for a moment why we need title conditions, because some might say that they are no longer required in the modern world. However, they are necessary in a number of situations. A typical example might involve a farmer who sells a piece of land to someone who wants to extend their garden. The farmer might say that he will sell the piece of land at a price that reflects its amenity or agricultural value and that, in order to protect that, he will include a title condition to say that the new owner will not be allowed to build on the land. That is because, if he had sold the land for development, he would have sought a higher price.

Title conditions are also necessary in urban or suburban situations. At one time, the house that I own had a larger garden than it now does but previous owners sold part of it to allow a smaller house to be built. Because the house sits in front of my house, there is a title condition, which I have the right to enforce, saying that the other house cannot be more than one storey high, in order to protect the view and the amenity of my property.

Mr Rumbles: I am puzzled by the example that the member gave involving a farmer selling a piece of land to someone who might subsequently want to build a house on it. Surely that is the sort of situation that we have planning authorities to deal with. There is no need for the farmer to have a burden in relation to the sale.

Murdo Fraser: That is an interesting intervention because it displays a complete ignorance of the way in which the law operates. Our planning system allows a person to apply for planning permission, but the person who has sold the land might want to exercise some control over the land, as it will be adjacent to his property.

Another important question is involved. If the farmer sells that piece of land knowing that he will have no control over it, he will have to assume that the use to which that land will be put will be the

most valuable use, to wit, development. Therefore, he will seek a price for the land that will reflect its most valuable use. Therefore, the person who wants to buy the land to extend their garden will end up not being able to afford it. Title conditions encourage the development of land that would not otherwise be developed. The fact that Mr Rumbles does not understand that point says a lot about the Liberal Democrats.

We have used title conditions in this country for many years. In fact, our great urban landscapes, such as the new town of Edinburgh, were developed under title conditions, long before the current system of public planning was developed. It is telling that the great urban landscapes that we have in Scotland all predate our current planning laws, which came in after the second world war. That demonstrates the value of title conditions.

However, law needs to be not only equitable and fair, but practical and workable. There are a couple of points that I would raise in that regard. Bruce Merchant, a solicitor in Inverness, and others told the Justice 1 Committee that there is concern over the impact that section 52 will have on the workability of conveyancing practice. It is all very well giving an implied right to enforce to all sorts of other proprietors, but the fact is that if you are a solicitor trying to convey a transaction—and I have experienced this in my working life—the requirement to go to 50 or 60 people to seek a waiver will make it impossible for conveyancing to continue. In practice, of course, the solicitor would not go to 50 or 60 people but would probably go to get some sort of insurance policy from an indemnity company that would cover them against any claims that might be made. That would mean that, if the bill went through with that measure, the purpose of the bill would be defeated. I would therefore ask the minister to consider again the question of implied rights to enforce, and think about whether we should instead have something like the 4m rule that is included elsewhere in the bill, which would limit the number of people from whom the solicitor would have to seek consent and make the system a bit more workable.

My other concern relates to clawback provisions. If land is disposed of for less than its development value, I can see the need for clawback provisions, but I cannot understand why the clawback provisions should be restricted to local authorities or public agencies. I can think of examples of private estates having sold land for development, and they should have that right to clawback also.

The Conservative party supports the bill, with the reservations that I have outlined. I trust that those will be addressed as the bill progresses.

11:15

Brian Adam (North-East Scotland) (SNP): Many of the members who have spoken have suggested that the bill is complex and technical. I hope that that is not an excuse for people not understanding what we are doing. Judging by the way in which it was said, I suspect that “complex and technical” is a euphemism for “I dinnae ken fit it means.”

In some ways, I am not surprised, given that we are discussing terms such as “breach”, “burdened” and “benefited” and that the debate is heavily overlain with servitudes. Discussions have taken place about a variety of burdens, and I do not know whether there is a distinction between real burdens and those that may not be genuine. Certainly, in a previous existence, I thought that such matters were quite unclear, but having read the report, I think that they are clearer now.

The intention of the bill is to make it easier for those who have interests in property to exercise those interests without them being unduly interfered with by those who have had historical rights. Despite Murdo Fraser’s best efforts to explain why those rights were bestowed, I am still unclear about that.

I must apologise for my late arrival this morning; I did not hear all of the Deputy First Minister’s speech. However, I welcome his concession that the 75 per cent threshold is too high and his willingness to reconsider the limit. For democracy, a simple majority is the best majority in almost every case. I understand why the committee was willing to accept two thirds rather than three quarters, but a simple majority must be considered, especially against the background of the potential for developers and managers to own units as a result of any ballot that might take place. Such a limit could distort the ballot, and I welcome Wendy Alexander’s comments about the iniquitous 40 per cent rule in the first referendum on Scottish devolution.

I am pleased that the committee and the minister have addressed many of the issues raised by the Sheltered and Retirement Housing Owners Confederation. However, the Executive needs to provide a definitive view on other issues, such as whether the word “retirement” should be used. Kenneth Macintosh gave an eloquent argument for why including the term “retirement” is not exclusive. Members do not wish to deny vulnerable people access to properties or to the benefits that will come from the bill. However, in order to bypass the legislation, an unscrupulous person might take advantage of the fact that the term “retirement” is not included in the bill, which is, of course, undesirable.

I welcome the minister’s announcement that there is to be an amendment that will allow for the

introduction of appropriate management schemes. I look forward to transparent management schemes that offer accountability to owners by outlining how their money is spent and which increase their rights.

The issues that Mike Rumbles, Tricia Marwick and Elaine Thomson raised about communal property over which owners may or may not have a direct influence—in the circumstances that Mike Rumbles described, they have an interest, but they have no control—would be best clarified by the minister in his closing speech. We must find out whether we need to amend the bill to take care of those matters.

Donald Gorrie was right to say that the bill is important and—as Wendy Alexander also said—has been worked on jointly. The approach to the bill has not been party political. That is a measure of the Parliament’s success and proof that it may be a stepping stone to something greater. Indeed, I am delighted to welcome the bill on the Scottish National Party’s behalf.

I listened with interest to what Christine Grahame had to say on a variety of matters, but I was particularly intrigued by what she had to say about pigeons. Pigeon lofts, for those of us who served previously as councillors, were always difficult to deal with. I suggest to Christine Grahame that where someone puts a pigeon loft is not the only problem. Whether they have the pigeons in the hoose is also a problem. There is a need to address the difficulties that are associated with that through appropriate legislation.

I commend Professor Roddy Paisley’s concerns to the minister. Many members and the Justice 1 Committee have continued to state that his concerns on mixed tenure estates are not misplaced. That issue ought to be re-examined.

Notwithstanding those minor concerns, the SNP welcomes the bill.

11:22

Mr Wallace: I thank all those who contributed to the debate for the broad welcome that they have given the provisions in the bill. In spite of the bill’s complexity, the speeches were well informed and raised important points. Indeed, we had a spirited speech from Christine Grahame, who managed to make the issue sound really exciting.

Others declared an interest. Perhaps I was remiss in not declaring an interest as a non-practising member of the Faculty of Advocates. Perhaps it is more relevant to declare another interest: some 23 or 24 years ago, I tutored conveyancing at the University of Edinburgh and earned an honest crust doing that alongside the man who is now Professor Kenneth Reid.

I declare a further interest: Scott Wortley—who has rightly been praised in the debate—and I are former pupils of Annan Academy. I do not know whether Scott has looked into whether the School Sites Act 1841 applies to our alma mater, but I am sure that, if he has, he will soon flag that up.

Members have perhaps not reflected on other interesting aspects of the bill, although Maureen Macmillan pointed out that, when we talk about sunset clauses, 100 years is perhaps just a twinkle—a small period of time—as far as lawyers are concerned. I also do not know the Parliament's view on the fact that section 80 repeals the Reversion Act 1469, which was passed in the year in which my constituency became part of Scotland. I am not sure whether the two had any connection, given the circumstances in which Orkney became part of Scotland, but that shows in a serious way that the bill is genuinely a reforming measure in tackling issues that have been part of our law for a very long time indeed.

A number of members, particularly Donald Gorrie and Elaine Thomson, raised maintenance and the fact that, where there is silence on the matter in the title deeds provisions, default provisions will allow the power of the majority to instruct maintenance. The Justice 1 Committee's report considered the term "maintenance" in the bill and the Executive considered whether it should also cover improvements. Our view is that the bill is intended to deal with property all over Scotland. We did not think it right to sanction improvements as opposed to maintenance and repair. The committee shares that view, although it has suggested that the Executive should consider any recommendations that the housing improvement task force may make on the matter. I am happy to concur with that suggestion.

Fergus Ewing raised the fact that superiors would continue to be able to enforce burdens. However, he pointed out the existence of the 100m rule and the fact that the Lands Tribunal will have to be satisfied that not preserving the burden would result in material detriment to the property. That was considered at great length during the consideration of the Abolition of Feudal Tenure etc (Scotland) Act 2000. We undertook then to reconsider it in the context of the bill. The balance is difficult to strike, but we believe that the 100m rule strikes the proper balance.

It is also important to point out that, although the 2000 act's day of implementation will be Martinmas 2004, the right to irritate a feu—in other words, to be able to evict and end a feu on the basis of the breach of a condition—has already been abolished. Phil Gallie raised the point about an owner who grew a low hedge along the front of their house in contravention of the title conditions. He claimed that that could lead to repossession.

Section 53 of the 2000 act extinguished the rights of irritancy. It is important to point out that the measure has already been implemented.

Lord James Douglas-Hamilton mentioned that local authorities would be given special treatment on clawback. He said that the benefit to the public should be carefully defined. I agree that it is necessary to define carefully the circumstances in which local authorities will be able to impose clawback. I indicated that that would be limited to cases in which it would assist economic development.

On Murdo Fraser's point about private developers and clawback, it is important to point out that the bill amends the law relating to standard securities to permit private bodies and others to make better use of standard securities to secure clawback arrangements.

Understandably, a number of members focused on the issues that relate to sheltered housing. The committee's experience was also that that issue attracted most interest. I have considered, as I have in the past, the points that were made about whether the definition should include the word "retirement". I made it clear in my opening speech, and I repeat, that the Executive's firm intention is that all references to sheltered housing in the bill will include retirement housing. Whether it should be mentioned specifically has been considered. The committee considered it, but was satisfied that the definition of "sheltered housing development" covered retirement accommodation.

We believe that that is the case. As the explanatory notes to the bill point out,

"The contents of the definition are the important consideration, with its emphasis on ... facilities and features".

If we were to say, for example, "including retirement", it might be necessary to start to define retirement, which might lead to more problems than it was intended to resolve.

Mr Macintosh: The committee accepted the Executive's argument that the term "sheltered housing development" is meant to and does include retirement complexes. However, members argue that the word "retirement" should be in the bill. That term does not exclude sheltered housing; it is an inclusive term. Does the minister agree that the argument that the committee accepted—that "retirement" is an exclusive term—is not appropriate any more?

Mr Wallace: Concern was expressed that the term could exclude housing that was specially adapted for people with disabilities. I have considered whether we could have an inclusive definition rather than one that might be considered exclusive. The Executive's concern is that, if we did, we would have to start to define what we

mean by retirement. Would it include those who are partially retired? From what age would it be relevant?

Members should take it that there is no dubiety: the definition is intended to include retirement accommodation. However, if an amendment to include the word “retirement” is lodged at stage 2, we will have to return to the argument and give it further consideration.

Sylvia Jackson sought confirmation of the length of the management burden. I indicated that it would be reduced from 10 years to five years. On whether the definition of “manager” should include a company, I do not think that we could say that “manager” refers only to management companies, because that could lead to circumstances in which an individual might not be allowed to exercise the management function. The definition of a “manager” under section 110 includes companies.

Brian Adam: Some management companies describe wardens as managers. Could we have clarification of that, at least in regulations?

Mr Wallace: The definition makes it clear what is intended by the term “manager”. I accept that confusion may arise if the term “manager” is applied to wardens, but we are clear about what is understood by and defined as “manager” in section 110. To define a “manager” specifically as a company could mean that some managers were not included, and some people might think that an individual may not be appointed to carry out the job.

Mike Rumbles and Tricia Marwick raised specific issues. I would never wish to give them legal advice, but I ask them to put their points to me specifically, and I will also examine the *Official Report*. I think that we could better deal with the matters in writing after I have studied what the members said.

Tricia Marwick spoke about the variation of burdens. The bill allows owners of a majority of properties in a community to discharge or vary conditions that apply to all or some of the properties. It is also possible to apply to the Lands Tribunal for Scotland to vary or discharge a burden.

Maureen Macmillan, Lord James Douglas-Hamilton and others raised another important issue concerning the points made to the Justice 1 Committee by Bruce Merchant, a practising solicitor. Indeed, he made some forcible points in the written evidence that he submitted. As I have indicated, if the Law Society of Scotland wishes to make further representations on the matter, we will consider them. However, I do not believe that the position is quite as cumbersome or difficult as it has sometimes been represented as being. It is important to remember that the bill’s provisions on

acquiescence, for example, if they are realistically applied by a conveyancing solicitor, will mean that it will be unnecessary to acquire a host of agreements. If there were a breach of a burden that had existed for five years without any objection, our proposal on negative prescription would extinguish that burden, so there would be no need to write round everyone, seeking consents.

It is important to remember the provisions under sections 32 and 34. Under section 32, the majority of owners in the common scheme can sign a discharge; it is not essential for everyone to be signed up. The minority will have the right of appeal to the Lands Tribunal. Under section 34, all the owners within 4m can grant a discharge. That indicates that the difficulties are not quite as cumbersome as has been suggested.

Dr Jackson: The minister has not mentioned the proposed development management scheme, and how rule 4.2 of that scheme might clash with the warden’s contract and with the five-year rule.

The Deputy Presiding Officer: You have been very generous in accepting interventions, minister, but you will need to make that the last one.

Mr Wallace: Given that the terms of the development management scheme still have to be devised—amendments will be lodged and parallel work will be done at Westminster—I would want to consider the matter and get back to the member.

Although it has been widely recognised that the bill is highly technical, it will affect conditions that apply to the vast majority of properties in Scotland. With the Abolition of Feudal Tenure etc (Scotland) Act 2000, the bill completes the replacement of what is an old form of land ownership. As members have recognised, this is a major reform of the law, which moves us into the 21st century. Once passed, the bill, together with the 2000 act, will serve as a reference point for conveyancers for many years to come.

We are abolishing a 533-year-old law, so it is interesting to speculate about what might be happening in the year 2535, and how people will look back on this piece of legislation then.

I welcome the consensual, non-partisan way in which the debate has proceeded. I have one thing left to say: I promised the students of St Ninian’s Primary School that I would use the word “peedie”, which is the Orcadian word for small. No one can say that this is a peedie piece of legislation, and I hope that the Parliament will pass it at stage 1 later today.

The Deputy Presiding Officer: I promised to say “Haud yer wheesht.” I maybe should have said it earlier.

Title Conditions (Scotland) Bill: Financial Resolution

11:35

The Deputy Presiding Officer (Mr Murray Tosh): The next item of business is consideration of motion S1M-3588, on the financial resolution in respect of the Title Conditions (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Title Conditions (Scotland) Bill, agrees to any increase in the sums payable out of the Scottish Consolidated Fund in consequence of the Act.—[*Peter Peacock.*]

The Deputy Presiding Officer: The question on the motion will be put at decision time.

Extradition Bill

The Deputy Presiding Officer (Mr Murray Tosh): The next item of business is consideration of motion S1M-3608, in the name of Mr Jim Wallace, on the Extradition Bill, which is proposed United Kingdom legislation. I call on Jim Wallace—now that he has got his breath back—to speak to and move the motion.

11:36

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): Last week, the Queen's speech set out the United Kingdom Parliament's legislative programme for its current session. My colleague Richard Simpson reassured MSPs that we would update them on the necessary Sewel motions as soon as possible. This debate focuses on the first Sewel motion to arise out of the Queen's speech, which is on the Extradition Bill.

It has been suggested by some that the effect of Sewel motions is somehow to shift boundaries between reserved and devolved matters, thereby allowing legislative competence to drift back to Westminster. That is a complete misconception. Sewel motions have no bearing whatever on this Parliament's legislative competence, which remains exactly as it is set out in the Scotland Act 1998.

I refer to the Scottish National Party's amendment. I do not agree that the

"provisions implementing the European Framework Decision on the European Arrest Warrant in the Extradition Bill",

which the amendment cites, should be devolved. Following the lodging of the amendment, the matter was given further consideration. Extradition is a reserved matter under schedule 5 to the Scotland Act 1998, and it is reserved without any exception. The subject matter of the framework decision, which sets out the due process for the return of a fugitive from justice from one sovereign state to another, relates to extradition as it is commonly understood.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): I hope that I am not preempting the minister, but he referred to the motion in his name as a Sewel motion, which I understand gives this Parliament's permission for the UK Parliament to legislate, in part, on a devolved issue. Given what the minister has said about extradition, can he tell me on what devolved issue the Extradition Bill legislates?

Mr Wallace: I think that the purpose—and perhaps "Sewel motion" is not the proper term—

[MEMBERS: "Oh!"] If members listen, I will give the reason why we are debating the motion before us. Sewel motions were not to be only on issues concerning devolved matters; we have understood and agreed that, if functions are conferred on Scottish ministers—albeit on reserved matters—it is important that this Parliament is aware of what is happening and is content that those functions be conferred on them.

The Extradition Bill confers executive functions on Scottish ministers in relation to extraditions to and from Scotland. I think that it is only right that MSPs are fully informed about the functions that Scottish ministers are being asked to exercise on behalf of the people of Scotland, for which we will be accountable to the Parliament. It is precisely to ensure that MSPs have the chance to scrutinise what Scottish ministers are about to do that the scope of the Sewel convention also covers bills such as the one that is before us today.

Alasdair Morgan: I am grateful to the minister for that explanation. There is a provision in the Scotland Act 1998 for functions that are exercisable by UK ministers to be transferred to the Scottish ministers by order. Is he saying that, when any Westminster statutory instruments are laid in future, they too will be brought before the Scottish Parliament for consideration? That would strike me as totally analogous.

Mr Wallace: I am not saying that; I am talking about provisions in bills. The present extradition powers that are exercised by Scottish ministers are, I think, governed by way of order. It might have been possible for that arrangement to have continued, but the view that was taken was that it was better to have all the provisions in the body of one bill. That is why the provisions are contained in the Extradition Bill and why we have lodged the motion before us. This relates, in fact, to a section 63 order under the Scotland Act 1998.

I am sure that members of the Scottish Parliament would agree that the handling of the extradition of fugitives to and from Scotland within the Scottish legal framework is something that ought to be done by Scottish ministers. Hence the reason for today's Sewel motion.

Let me set out in more detail how the bill will work. We all recognise that crime, and serious crime in particular, is becoming increasingly international in nature. International travel makes it easier for criminals to seek to evade justice by fleeing from one country to another, so improved judicial co-operation between nations is needed to tackle such developments. Reform of the United Kingdom's extradition law is designed to contribute to that process.

When enacted, the bill will replace the Extradition Act 1989 with an updated and more

streamlined framework for extradition while safeguarding the fundamental human rights of fugitives. It will establish a framework consisting of two separate and distinct categories for the UK's extradition partners. Each partner country will be placed in a particular category that will depend on the extradition procedures that the UK negotiates with each partner. Movement from one category to the other will be possible.

The bill implements the framework decision on the European arrest warrant to create a fast-track process with member states of the European Union as well as with Norway, Iceland and Gibraltar, which will all comprise the category 1 countries. With some important modifications to reduce duplication and complexity, the bill retains the current arrangements for extradition to all category 2 countries. Category 2 countries are those countries that are outwith the category 1 states and with which the UK has mutually agreed extradition arrangements. The bill also simplifies the rules governing the authentication of foreign documents and creates a simplified single avenue of appeal for all cases.

An order under section 63 of the Scotland Act 1998 already means that most current Scottish casework has been executively devolved to the Scottish ministers. However, specific executive functions will be conferred on Scottish ministers in the bill that will replace the existing section 63 order. That will ensure that decisions about the extradition of individuals to and from Scotland will continue to be taken by Scottish courts and by Scottish ministers as appropriate.

In category 1 cases, if another EU country wishes the return of a fugitive from Scotland, a judicial authority in that country will issue a European arrest warrant and send it to the designated authority in Scotland. It has been agreed that the designated authority in Scotland will be the Crown Office. If the warrant has been completed satisfactorily, the designated authority will certify the warrant, which will then be passed to the police for enforcement.

Stewart Stevenson (Banff and Buchan) (SNP): I draw the minister's attention to section 182 of the Extradition Bill that has been tabled at Westminster. That section places additional burdens for legal aid on the Scottish financial provision. Given the fact that the minister's motion has no corresponding financial resolution and that this Parliament may not spend money without such a resolution, is it possible to proceed with his proposal?

Mr Wallace: The position is that legal aid is already available to people in the appropriate circumstances and the bill will continue that. This Parliament's predecessor, for which this Parliament takes on responsibility, has approved

the provision of legal aid in such cases. The basis of the statute that gives rise to extradition cases should not vitiate the general principle that has been agreed that legal aid should be available in such circumstances.

Stewart Stevenson *rose*—

Phil Gallie (South of Scotland) (Con): Will the minister take an intervention?

Mr Wallace: I have already been generous in doing so, but as it is Mr Gallie, I will give way.

Phil Gallie: Does the minister's example not show that the reverse would be the case? Given the fact that the purpose of the bill is to speed up the extradition process, will that not mean that the level of legal aid that is paid could be reduced?

The Deputy Presiding Officer: This debate will be a bit tight, so I ask the minister to make that the last intervention that he accepts.

Mr Wallace: Mr Gallie is probably right in that. The bill will streamline the extradition process, so it may give rise to a lesser call on legal aid funds than exists at the moment.

The fugitive would be arrested and brought before a sheriff of Lothian and Borders for an initial hearing. The sheriff would then have to decide whether the person arrested was the person for whom the warrant was issued. If so, the sheriff would then fix a date for the extradition hearing. At the extradition hearing, the sheriff would decide whether the offence that the fugitive was alleged to have committed was an extradition offence and whether any bars to extradition applied. Those bars include the rule of double jeopardy and the fugitive's age. If the sheriff ordered the fugitive's extradition, the fugitive could appeal to the High Court of Justiciary. If the appeal was refused, the fugitive would be returned to the requesting state.

The aim is to return a fugitive within 60 days of receipt of the warrant or within 90 days if he or she appeals. It should be noted that the decision on extradition under the bill's arrangements is a matter for the judiciary in Scotland rather than for the Scottish ministers. Indeed, the bill provides the kind of simplification to which Mr Gallie referred.

There are some major advantages to the new European arrest warrant procedure. It will deliver justice more rapidly for victims at home and abroad. It removes the time bar, as it will no longer be possible automatically to refuse extradition if the alleged crime is well in the past. That will be particularly beneficial for those who, when children, were the victims of serious sexual crimes but who have only now felt able to come forward as adults. In addition, it will no longer be possible for one European country to refuse to extradite a person to another European country, regardless of the seriousness of the crimes, solely because the

individual sought is a national of the state concerned.

In category 2 cases, the decision on whether to extradite will remain with Scottish ministers as at present. The procedure will remain broadly the same; the main changes that will be made will be to the appeal process. Under the present rules, where a sheriff orders the committal of a fugitive to await the decision of the Scottish ministers as to his return, the fugitive can appeal straight away to the High Court. If the appeal is lost, the case passes to the Scottish ministers for their decision. If Scottish ministers order the fugitive's extradition, he can appeal again. That is not the best use of court time so, if a fugitive appeals against the decision of the sheriff, the appeal will be suspended until after the Scottish ministers have considered the case. If Scottish ministers order extradition, the fugitive can then appeal to the High Court.

The bill also makes provision for the opposite way round, so that any sheriff in Scotland could issue a European arrest warrant for the return of a fugitive from Scottish justice.

The bill contains specific provisions that will ensure that the distinctive roles of Scottish ministers, of the Crown Office as the designated authority and of the Scottish courts are safeguarded in relation to extradition.

I see that the Presiding Officer is signalling, so I will bring my speech to its conclusion.

We recognise that the bill will modernise the UK's cumbersome statutory extradition framework. It will put in place arrangements that will make the process more efficient, while respecting the human rights of those who are the subject of extradition requests. Notwithstanding the fact that extradition is reserved, we support the conferring of executive functions on the Scottish ministers that is provided for by the Extradition Bill.

I move,

That the Parliament notes the provisions of the Extradition Bill and agrees that those provisions conferring Executive functions on the Scottish Ministers in relation to extradition should be considered by the UK Parliament.

The Deputy Presiding Officer: I advise that, as we have received more bids to speak than we had notice of, the debate will be much tighter than anticipated. I ask members to keep within their speaking limits.

11:48

Christine Grahame (South of Scotland) (SNP): The SNP has not automatically amended the motion in the name of the minister. Not all Sewel motions are bad, although we have had too many. There have been, I think, 38 Sewel motions

to date. That flies in the face of the late Donald Dewar's words on devolved matters. He said:

"there is a possibility ... of the United Kingdom Parliament legislating across those areas, but it is not one which we anticipate or expect."—[*Official Report, House of Commons*, 28 January 1998; Vol 305, c 402-3.]

How wrong that turned out to be.

However, the SNP amendment has been lodged not for that reason—it is not a wrecking amendment—but because the basis on which the minister seeks the Parliament's support is fundamentally flawed. The Executive motion states:

"conferring Executive functions on the Scottish Ministers in relation to extradition should be considered by the UK Parliament."

The SNP amendment would add:

"with the exception of provisions implementing the European Framework Decision on the European Arrest Warrant in the Extradition Bill which should be dealt with by the Scottish Parliament"

I know that members in the chamber have looked at the bill, but I am referring to part 1, not part 2. Part 1 deals with the new creature that is the European arrest warrant. There is a crucial distinction to be made. Extradition orders lie within the jurisdiction of politicians and politicians take the final decisions on them; European arrest warrants would lie within the jurisdiction of the courts alone—in this case, the Scottish courts—and no political fingers would poke into that particular jurisdictional pie.

Pauline McNeill (Glasgow Kelvin) (Lab): I welcome the SNP's approach to this morning's debate because the SNP does not seem to be taking its usual approach of opposing Sewel motions on principle. However, I question the SNP amendment, which states that Scotland has the power to legislate in relation to the European arrest warrant. Is it not the case that Scotland cannot legislate against a European Union decision because such a decision is paramount?

Christine Grahame: No, we are talking about the implementation of warrants and I will develop the argument. The SNP is not accepting the Sewel motion as it stands because it is not competent. Under the European framework decision, it is not a Sewel motion and I will develop that argument.

In the EC framework decision, from which I will now quote, it is plain that the European arrest warrant is a substitute for extradition and therefore a completely different creature. Recital (5) of the EC framework decision states:

"The objective set for the Union to become an area of freedom, security and justice leads to abolishing extradition between Member States and replacing it by a system of surrender between judicial authorities. Further, the introduction of a new simplified system of surrender of

sentenced or suspected persons for the purposes of execution or prosecution of criminal sentences makes it possible to remove the complexity and potential for delay inherent in the present extradition procedures."

We are therefore talking about the implementation of warrants, not extradition. Extradition is dealt with in part 2 of the Extradition Bill. It is therefore my contention that we are not dealing with a wholly reserved matter. It is a core distinction, because extradition is completely reserved. Processes and procedures such as shrieval and judicial warrants are not reserved.

There is also another distinction between those two legal creatures. There is no requirement that the crime alleged in the European arrest warrant by the state issuing that warrant be a crime in the state executing that warrant. That is a requirement of extradition.

Under the Sewel convention, the consent of the Scottish Parliament is required to any provisions of a UK bill that confer executive functions on Scottish ministers. The Extradition Bill does more than that and makes provision for wholly devolved matters relating to criminal procedures that have remained clear and independent in Scots law, despite the Treaty on European Union, such as the implementation of the European arrest warrant.

We cannot simply glide over that distinction and argue that extradition has been redefined and therefore brought within the reserved areas of the Scotland Act 1998. One cannot amend legislation, certainly not constitutional legislation, by inference or import. It would require primary amending legislation. In support, I will quote Lord Sewel's statement on Sewel motions. He said:

"we would expect a convention to be established that Westminster would not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish parliament.

If problems do arise the solution is for the Scottish executive and the United Kingdom Government to resolve the matter through political dialogue ... If this Parliament thought the situation had got to a stage of total impasse, it would be possible to look again at the Bill and enact primary legislation affecting the reserved matters."

My argument is that the European arrest warrant is not reserved. Lord Sewel went on:

"There should be mature political dialogue to resolve a difference, which is better than legislative tennis. If an impasse results there is the ultimate fallback position of looking at Schedule 5 and changing the devolved powers."—[*Official Report, House of Lords*, 21 July 1998; Vol 592, c 791.]

Primary legislation can be used to alter the Scotland Act 1998 in this regard.

I have a few more points to make, Presiding Officer, because these are important constitutional arguments that underpin the SNP amendment. We also have civil liberty concerns. I quote:

"The Eurowarrant is based upon the presumption that EU countries all have fair systems of justice which should remove the need for any country to scrutinise the fairness of extradition to such a country. This presumption is seriously open to question."

One only has to consider the recent case of the plane spotters in Greece.

"With the current European arrest warrant, any one of the English planespotters could have been arrested in England on a warrant from an English court at the request of a Greek prosecutor and sent to Greece for trial, without the current political protections or the safeguard of habeas corpus"

or, in a Scottish case, without the protection of the 110-day rule. Those issues were raised by Neil MacCormick at the European Parliament.

The Liberal Democrat response at Westminster to the draft Extradition Bill said:

"we believe it would be wrong to implement changes on extradition before the European Commission's review of minimum procedural safeguards for suspects and defendants has been completed ... Common standards in relation to the presumption of innocence, the right to legal advice and representation, rules of evidence and the practice of custodial remands should be established and applied before common judicial procedures are adopted."

"The European Commission has not completed its review of minimum procedural safeguards and common standards."

I come to my final point, Presiding Officer. The bill has been published only for a week and there is no immediate need for the Executive to pursue the motion. If the SNP amendment is not acceptable—as it will probably not be—I respectfully submit that the Executive should seek the leave of the chamber to withdraw its motion, examine the constitutional issues that have been raised and either give the Parliament or the justice committees the opportunity to examine the issues raised or return to the chamber with a revised motion to reflect what is really happening.

I move amendment S1M-3608.1, to insert at end:

"with the exception of provisions implementing the European Framework Decision on the European Arrest Warrant in the Extradition Bill which should be dealt with by the Scottish Parliament, and calls upon the Scottish Executive to bring forward legislation implementing the Framework Decision that reflects the particular nature of the Scottish legal system."

11:56

Lord James Douglas-Hamilton (Lothians) (Con): We will vote for today's Sewel motion because we believe that the United Kingdom Parliament should have the right to determine issues relating to extradition. The United Kingdom Parliament should exercise its jurisdiction in a way that serves the public interest and pursues the ends of justice without being desperately unfair to the accused.

The matter is reserved under schedule 5 to the Scotland Act 1998. We therefore believe that the Sewel motion is necessary because of the delegated functions that come under the Scottish Parliament, such as all policing matters.

The bill seeks to speed up the process of extradition and removes the need for the Home Secretary to be involved in every application. According to information from the Home Office, it takes approximately one year to return a suspect to the United Kingdom and some six years to send a suspect for trial abroad. Under the provisions in the bill, which is due to come into force in April 2004, overseas police forces will be able to seek the arrest of British citizens inside the United Kingdom. Alleged fugitives will have an initial hearing in front of a district judge or sheriff in the United Kingdom, and will be able to appeal to the High Court.

In some cases, there will also be appeals to the House of Lords. Some rights of appeal will be removed as the Government tries to cut the average time taken to hand over suspects from 18 months to 3 months. The Government says that there is no reason why alleged criminals should not be sent for trial in countries that have fair justice systems.

I understand that the Conservative front bench at Westminster agrees that reform to the extradition process is needed, particularly in cases of alleged terrorists. However, under no circumstances should the arrest warrant be used to arrest a British citizen for an action that is not a crime in the United Kingdom, nor should a British citizen be sent to face trial in a country that has the presumption of guilt. In other words, the Conservatives accept that the authorities must have the power to detain terrorist suspects in one country for crimes that they have committed in another. However, Conservatives will oppose any new powers to arrest and deport British citizens for activities that are not crimes in the United Kingdom, and any measures that compromise the presumption of innocence.

The bill will make certain that Scottish ministers can fulfil their full ministerial role in relation to extraditions to and from Scotland. It will enhance their role in certain instances. For example, for the first time, they will handle extradition requests from the United States of America. Those changes acknowledge the reality that there is a different criminal justice system in Scotland and that will be reflected in the bill.

In response to Christine Grahame's speech, I say that I have no doubt that the Scottish MPs at Westminster will consider the points that she has raised when the matter is debated in the United Kingdom Parliament. It also has to go to the second chamber, where it will undoubtedly be considered for amendment.

Stewart Stevenson: The Chambers dictionary, which I have just consulted, states that extradition is the “delivering up of accused” persons “by one government to another”.

Would the member accept, therefore, that the surrendering of a person by a Scottish Government to a Westminster Government is extradition?

Lord James Douglas-Hamilton: No, not in that sense.

Stewart Stevenson: Why not?

Lord James Douglas-Hamilton: It is an important constitutional point. The United Kingdom Parliament is sovereign and, in theory, the United Kingdom Parliament could step in on any issue that is devolved. The delegated powers are devolved to here, and I do not envisage that there will be any conflict between this Parliament and the United Kingdom Parliament over extradition. I have no doubt that if any particular issues have to be referred to this Parliament, in due course the minister will come back to us, but I do not think that that is at all likely to happen.

We support the motion, as we believe it to be in the national interest. The matters involving terrorism should be accorded the highest priority and be dealt with speedily whenever possible.

12:01

Angus MacKay (Edinburgh South) (Lab): So far, this has not been a terribly surprising debate, although in some respects it has been astonishing, in particular in relation to the speeches from the SNP benches. It took two or three interventions before we got even remotely near anything that addressed the substance of the debate, which is extradition and crime. Even in the substantive speech by Christine Grahame, we heard another series of obsessional tartan-underpants observations that focused exclusively on the difference between Scotland and the Scottish Parliament and the UK position. Not a single word was devoted to addressing serious and organised crime. People outside Parliament will find that absolutely astonishing.

Let us consider the substance of what the Extradition Bill will deliver. The European arrest warrant is just one aspect of it, and the SNP has picked up on it for party-political reasons.

Fiona Hyslop (Lothians) (SNP): Will the member give way?

Angus MacKay: No, certainly not yet. Perhaps I will do so in a moment. I wish to make a number of points and we are not given much time.

The bill deals with the current practice of evasion from, and delaying of, criminal prosecution by serious and organised criminals across international borders. It deals with—*[Interruption.]* Members should re-read what the bill seeks to do, because that is what it seeks to do. The bill deals with—*[Interruption.]*

The Deputy Presiding Officer: Order.

Angus MacKay: The bill deals with fiscal offences throughout the European Union and elsewhere, although it does not—sadly—deal with people who pretend to have a fiscal policy. It deals with another important issue, which perhaps has not been addressed so far: the rights of defendants—the rights of the accused—to be heard in court earlier rather than later, and to have the opportunity to clear their name or be convicted earlier rather than later.

Most important—for people everywhere but on the SNP benches—the bill deals with the kinds of criminals who increasingly take up police time and court time. They are the criminals who traffic drugs, who commit sexual assaults and who commit murder, not only throughout the European Union, but around the globe.

Fiona Hyslop: Will the member give way?

Angus MacKay: Not yet.

The present system, as Lord James Douglas-Hamilton mentioned, allows for up to six years in some cases to achieve extradition. The SNP's proposal, in calling for legislation on the matter here in Scotland, seeks in effect to create a further giant hiding place for those who are accused of serious criminal offences. It seeks to do that by taking the existing system and flying directly against what is being attempted today, what is being attempted by the European framework, and what is proposed by Westminster, which is the simplification of procedures, the simplification of legislation, and greater transparency across international borders—*[Interruption.]*

The Deputy Presiding Officer: Order.

Angus MacKay: The SNP position proposes more legislation, more opportunities for criminals to appeal and nil concentration on achieving the objective of extradition of those who are accused of serious organised crime.

Fiona Hyslop: Has Angus MacKay read the motion that we are debating? All it says is that we should note the provisions of the Extradition Bill. The question that Parliament must vote on, which is the substance of the debate and the substance of the amendment that Christine Grahame lodged, is about the powers of Scottish ministers. The debate is about whether part 1 of the Extradition Bill is about extradition or domestic warrants which are, we argue, a devolved matter.

Angus MacKay: I have read the motion and the SNP's amendment, which clearly

"calls upon the Scottish Executive to bring forward legislation"

in this Parliament. That confirms what I said—the SNP is asking for another layer of law, which will allow those who are accused of such criminal offences, and whose extradition is sought, to appeal further under more layers of legislation. That will merely further extend the appeal process and will do nothing to simplify it. It will not work in the interests of those who are accused and it certainly will not work in the interests of those who are alleged to be the victims of such criminal offences.

The truth of the matter is that the purpose of the Extradition Bill is to make the system faster, clearer and more transparent. The SNP proposal flies directly against that, directly against what has been agreed by the European Union, directly against what is proposed by the Westminster Parliament and directly against what is proposed by Scottish Executive ministers today.

I realise that I have only five minutes, Presiding Officer—Fiona Hyslop has taken some of that time—but I conclude by saying that I do not think that the SNP is even remotely interested in extradition, given its contribution today. We have said this before and we repeat it again: the SNP is far more interested in taking Scotland out of Britain than it is in getting criminals into court.

12:06

Stewart Stevenson (Banff and Buchan) (SNP): That was quite the most disgraceful speech that I have heard for some considerable time. The member knows perfectly well that we will have one piece of legislation on the matter; we are debating only where it will be passed. I do Angus MacKay the honour of saying that he cares about crime, because I know that he does, but we care about crime every bit as much as he does.

In more moderate terms, I say that I do not think that we have double jeopardy in Scotland—we thole the assize—but I understand that the minister may be fair trachled after his exertions today.

I raised the question of extradition with Lord James Douglas-Hamilton, because we have a system of warrants with other legal systems within the United Kingdom. The European framework decision seeks to cover the whole of Europe with a similar system. We adhere to the view that we are not dealing with extradition, because one of the fundamental proposals in part 1 of the Extradition Bill is the substitution of decisions by ministers with decisions by courts. That is fundamental; it is not incidental. It is only through the choice of the

drafters of the bill that the process is called extradition; the bill is about European arrest warrants.

The real issue is that in the Justice 2 Committee we are at stage 2 of the Criminal Justice (Scotland) Bill, and there are a number of crossover points that will cause difficulties. Richard Simpson's amendment 16 to the Criminal Justice (Scotland) Bill, on electronic communications and electronic storage, for example, interacts in an adverse way with clause 62 of the Extradition Bill, which relates to the use of facsimiles and the way in which they may be used. That is an unhelpful interaction.

There are also interactions on legal aid. I believe that the provisions in the Extradition Bill, whether enacted at Westminster or here, will speed things up—I hope that they do—but they will also increase the number of cases and therefore, potentially, the burden on the legal aid system. It appears to be entirely improper for us to address clause 182 of the Extradition Bill.

Sections 54 and 55 of the Criminal Justice (Scotland) Bill contain measures that are not entirely dissimilar to measures in the Extradition Bill, and so will interact in an adverse way, in particular in relation to age. Sections 54 and 55 relate to offences that are committed by agents of Scottish companies, persons, partnerships and so on, and who may be prosecuted. We now have a curious situation which, because there is legislation at Westminster and legislation here, we might be unable to resolve satisfactorily. Someone could be extradited—I use the minister's term for the sake of argument, but in our terms it is transfer under a European arrest warrant—from the Scottish jurisdiction to elsewhere in Europe based on a crime that has actually been committed in, for example, Thailand, without necessarily having the kind of protection that we have in our criminal justice system.

If my speech raises a series of complex, technical issues, it does so because separating out a significant change to the criminal justice system while we are legislating on criminal justice is a recipe for confusion and disaster.

12:10

Pauline McNeill (Glasgow Kelvin) (Lab): The Extradition Bill, which was introduced on 14 November 2002, will bring about a wide-ranging review of the law of extradition. It will incorporate into UK law the adoption of a framework decision on the European arrest warrant, which will create a fast-track arrangement for extradition between member states of the European Union, together with Norway, Iceland and Gibraltar.

More legislation is being introduced to toughen up on the serious and organised crime that occurs

more than ever across national borders. The Government is committed to doing that. It is essential that we continue to deal with crime on an international basis through bilateral treaties, protocols and European Union legislation. Extradition and the transfer of fugitives are a UK power, and rightly so. It is important that we have a uniform approach—not just throughout the European Union, but with as many countries as possible—to ensure that we deal with criminals wherever we find them and that we send them to the country in which their crime was committed.

Part 4 of the bill, which deals with the powers to obtain search warrants and to seize and retain evidential material, will reflect the differences between the Scottish and English systems, because the provisions of the Criminal Procedure (Scotland) Act 1995 will be relied on. It is important to note that the bill protects Scottish provisions.

The European Union arrest warrant raises an issue that ministers must address this afternoon. Framework decisions in the European Union are not understood as well as they should be. I understand that a framework decision must be adopted by the member states and therefore constitutes European Union law. Scotland cannot legislate against European Union law, so the SNP amendment, although it is helpful, is flawed. However, I urge ministers to be cautious about the way in which the Parliament deals with framework decisions.

The Justice 2 Committee has dealt with framework decisions relating to civil law. We have been asked to examine a framework decision that was initiated by France, under which we would adopt the French way of proceeding, rather than the Scottish way. If we regard the Scottish way of proceeding as preferable, we should be able to bring influence to bear on the normal decision-making process. I am not talking about legislation. The Justice 2 Committee urges other committees to consider the issue of framework decisions, which often sneak through. I am not shy about saying that we need to protect Scottish principles and I want Scottish ministers to address the issue that I have raised.

As I said, the European arrest warrant is part of an important framework decision. The judicial authority in each European Union state will issue a common form of arrest. The Crown Office will handle warrants that seek the extradition of persons who are believed to be in Scotland. A person may be arrested when there are reasonable grounds for believing that a warrant might be issued shortly. That is an important change and a very strong power, which we need because it reflects the serious nature of the crimes that require persons to be extradited. The Labour party is committed to dealing with that issue.

Christine Grahame: Will the member take an intervention?

The Deputy Presiding Officer: No—the member is in her last minute.

Pauline McNeill: It is crucial that decisions will be made by Scottish sheriffs, Scottish procurators fiscal and the Scottish police force. If we leave aside the note of caution that I have sounded, I do not believe that the bill will have a detrimental effect. The European arrest warrant is fundamental to making the way in which member states proceed the same on every front. It is a necessary power throughout Europe.

As Angus MacKay said, it is important that we continue to build on bilateral treaties with other countries to ensure that we tackle serious crime. When we need extra strong powers, those should be taken. I hope that Scottish ministers acknowledge the important point that I have made about framework decisions. I support the motion.

12:15

Donald Gorrie (Central Scotland) (LD): If the Italian court wishes to pursue a Mafia boss who comes to Scotland because he prefers the climate, under the European arrest warrant the matter would come to Scottish courts, which would decide whether the case was bona fide and whether he should be sent off to Italy. In my language, that is extradition, but I wonder what the SNP thinks it is. The European arrest warrant is a speeded up and, we hope, improved system of extradition. If someone speeds up and improves their motor car, it is still a motor car. I ask for Christine Grahame's explanation.

Christine Grahame: I thought that I had expounded my explanation fairly thoroughly when I began. I take the opportunity to rebuke one of the speakers for attacking the SNP on its views on catching criminals, which was outrageous.

The Deputy Presiding Officer: You must get to the point.

Christine Grahame: My answer to Donald Gorrie is that there is no political involvement in European arrest warrants; there is an entirely efficacious warrant and arrestment procedure, which is not extradition. Extradition is defined narrowly in the Scotland Act 1998. It cannot be redefined retrospectively.

The Deputy Presiding Officer: You are eating into Donald Gorrie's time.

Donald Gorrie: In my language, the situation that I described is still extradition. I do not see what other word can be used. If courts in Scotland, at the request of the Italians, go through a process and agree that someone should be sent off to

Italy, that is extradition in my view and it is therefore a reserved matter. The peculiarity is that although the matter is reserved, the bill will give powers to Scottish ministers and authorities. There has to be an arrangement whereby if there is a big hoo-ha when somebody is extradited and there is great public feeling that it is wrong, Scottish ministers have to be answerable to this Parliament and not in some obscure way to the London Parliament. I hope that there will be an assurance that the process can be organised democratically and correctly. I do not agree with the SNP and, although I am sure that everybody is acting in good faith on the matter, I think that the SNP is mistaken.

12:17

Phil Gallie (South of Scotland) (Con): I have to say that the SNP's arguments are on a shoogly peg—apologies to St Ninian's Primary School—on the matter, although Christine Grahame raised issues that will have to be addressed in this Parliament after legislation is cleared at Westminster to allow the process to go ahead. There are implications for the Scottish courts and the Procurator Fiscal Service that need to be addressed. The ministers are well aware of that and can bring issues back, if need be, through statutory instruments in this Parliament. I do not see a problem with that.

I see a need for haste; we must address this important issue quickly. The Government has already fallen behind on the programme that David Blunkett agreed in Europe on the matter and we should do nothing in this Parliament to slow the process up. We will give the Executive's motion full support and we hope that things will move ahead quickly.

There are issues around the European arrest warrant that I would love to address, but sadly I lost the right to do that when I failed to win a seat at Westminster two years ago. The fact is that there are 72 members of Parliament from Scotland who are there to represent Scotland on UK issues. Some members here voted for the Scotland Act 1998, which acknowledged that extradition is a reserved matter.

Alasdair Morgan: Does Mr Gallie accept that the curious procedures at Westminster meant that most of the individual provisions within the Scotland Bill were not voted on?

Phil Gallie: The point is that the member supported the Scotland Bill when it went through Westminster. On that basis, he endorsed everything that it contained. That is the point that I am making and that is the assertion to which I will stick.

There are one or two issues that concern me. I am pleased to say that Conservative colleagues at

Westminster will undoubtedly act on those concerns. We are in danger of allowing acts that are seen as criminal law acts in other countries to be incorporated into our laws.

The three-year rule refers to the sentencing period. In Scotland, we might find that our mandatory sentencing or the sentencing options are much less than three years. We wish to query many issues in the detail of the bill and we have confidence that our one representative at Westminster will make our views well known.

12:20

Fiona Hyslop (Lothians) (SNP): The debate is serious, because it addresses a wide range of issues—not least, crime and the provision of international arrest orders. The SNP is not against the proposals for European arrest warrants, but it is concerned about where it is legitimate to hold the detailed consideration of, and debate on, the legislation.

In the European Parliament, Sir Neil MacCormick moved a constructive amendment to the framework decision on the European arrest warrant, in an attempt to build the 110-day rule into the general provisions. Sir Neil MacCormick is now calling for Eurojust—the European prosecution agency—to come to Edinburgh.

Let us turn to the nuts and bolts of the SNP's amendment and to the substantive issues that have been raised. Our argument is that, if we are to debate a Sewel motion, it should cover relevant areas. We are particularly concerned about whether the issue in part 1 of the bill is about extradition or whether it is about domestic warrants. If it is about domestic warrants, it is a judicial matter, which means that it is a matter for the Scottish Parliament, rather than for Westminster, to address.

Our understanding of extradition is that it requires a decision by a minister in executive Government in order to proceed. No such decision is necessary for the execution of a European arrest warrant. The fact that the execution of a European arrest warrant is entirely a judicial process means that part 1 of the Extradition Bill should be considered in Scotland.

I refer members to the council framework decision of 13 June 2002, which states:

"The objective set for the Union to become an area of freedom, security and justice leads to abolishing extradition between Member States and replacing it by a system of surrender between judicial authorities."

I draw Donald Gorrie's attention to that point. The framework decision abolishes extradition in European Union member countries and replaces it with

“a system of surrender between judicial authorities.”

The judicial authorities are the court system in Scotland, not Executive ministers. That is the important distinction.

The issue of deferral has been raised. It is only seven days since the publication of the bill so, bearing in mind the constitutional points that have been made, is not it reasonable to ask for a deferral so that those points can be considered? If it is decided that matters relating to the judicial system should still be dealt with by Westminster, the Executive should come back with a Sewel motion that is about all of part 1 of the bill, rather than just the functions.

If Pauline McNeill thinks that it is important for the Justice 2 Committee and other committees to consider framework decisions and their implementation in relation to civil law, does not she think that it is equally important that the Justice 2 Committee, and other committees, should examine framework decisions and their implementation in relation to criminal law? Would not the Parliament be setting a good example by taking responsibility for the criminal justice system issue? Should not that issue be examined by the committee that is responsible for such consideration?

There are other general problems with the Extradition Bill; for example, there are some civil liberties arguments about implementation. The Liberal Democrats' submission to the consultation raised important points about civil liberties arguments and the importance of considering the European Commission's report. That issue is worthy of consideration. I am sure that members of Parliament from all parties will engage in such consideration at Westminster.

We must consider how the European arrest warrant will be implemented by the criminal justice system here. We must have a fair system. A concern that has been raised is that executing the bill's provisions should not create a problem in relation to the European convention on human rights.

One of my concerns is supported by the case of *Ramda v Secretary of State* in 2002, when the High Court said that it was no answer for the Secretary of State to invoke France's status as a signatory to the ECHR as a complete answer to complaints about the fairness of the trial.

We are dealing with big issues that cannot necessarily be addressed in a short Sewel debate, so we must deal with them again. I am particularly concerned that the renaming of the extension of domestic warrants to be interpreted as extradition will mean that powers can be transferred from the Scottish Parliament to Westminster. That would be a serious initiative to take and one that might come back to haunt us.

I ask the minister to withdraw his motion or to accept our amendment, which would allow part 1 of the bill, at least, to be legislated for. The Criminal Justice (Scotland) Bill is at committee stage currently, so we could be legislating now on the issues that I mentioned. At the very least, I ask the minister to consider our request because of the serious concerns that we have as parliamentarians in the Scottish Parliament. By lodging our amendment, we seek to protect powers under the Scotland Act 1998; I hope that the minister respects our right and responsibility to do so.

12:26

The Deputy Minister for Justice (Dr Richard Simpson): We have had a lively debate. I would like to call it interesting, but I find the approach of the SNP members difficult. Donald Gorrie put it well when he said that a car is still a car whether it has three wheels or four. Extradition is still extradition. If a fugitive surrenders and the process is undertaken through the EAW, I do not see the difference—the SNP is straining at a gnat.

SNP members have put the arguments—I cannot say that they put them well. Extradition is a reserved matter. Processes that enact extradition are reserved. In this case, I simply do not follow the SNP's arguments.

However, we should welcome the fact that, on this occasion, the SNP has not opposed the Sewel motion. That is a heartening development. The SNP has crossed a threshold. In the context of the Scotland Act 1998, Sewel motions are an important way to get ahead with business rather than clog up the Parliament by dealing with a series of issues. Some 34 such motions have been passed, dealing with important legislation that it was appropriate for us to undertake in that way, either because of time or because we were seeking continuity throughout the United Kingdom. I am pleased that, for the first time, the Scottish National Party has recognised that Sewel motions provide an appropriate way to deal with matters. I hope that it will continue to do so.

The bill is designed to set a flexible framework for extradition procedure in the future. The new Extradition Bill presents the end of a lengthy process. I understand Pauline McNeill's point, but in this context, we are dealing with a reserved matter. Where the implementation of a framework decision relates to a devolved matter, it is appropriate for the Scottish Parliament to implement it through an act of the Scottish Parliament. Where the implementation of a decision relates to a reserved matter, comment can be made. Next week, I will attend the European justice and home affairs council as part of the United Kingdom delegation, to talk about

issues that are of importance to Scotland. That is appropriate and that is how it should be done.

Pauline McNeill: The minister raised framework decisions. Does he agree that the framework decision being dealt with in Parliament at present should be scrutinised properly if it refers to devolved matters? The flaw in the SNP's amendment is that, even if the framework decision were on a devolved matter, we could not legislate against the European Union.

Dr Simpson: I agree with the first point: it is entirely appropriate that the Parliament should scrutinise issues if they relate to devolved matters and European framework decisions.

The new Extradition Bill is the end of a lengthy process. In 1999, the European Union announced its intention to build an area of freedom, justice and security based on mutual recognition of fellow member states' judicial decisions and infrastructure. Part of the fruit of that approach is seen in the bill. In particular, the bill implements the framework decision on the European arrest warrant, adopted by the Council of the European Union on 13 June 2002. Shortly, we will consider a Sewel motion on the Crime (International Co-operation) Bill, which implements a range of other EU decisions on judicial co-operation across national boundaries. That is entirely appropriate.

At the domestic level, the Government set out its proposals to reform the law on extradition in a consultation document, "The Law on Extradition: a review", in March 2001. Those proposals were given fresh impetus by the terrible attacks on the United States last September, and they were modified to reflect the adoption of the framework decision on the European arrest warrant. The Extradition Bill represents a significant step towards closer and more effective co-operation with our extradition partners, but I stress that it does not represent a move towards the introduction of a European justice system by the back door. It is fully based on the principles of mutual respect and co-operation between judicial systems.

As crime becomes more transnational, we need to work together more closely. International borders are not barriers to increasingly sophisticated criminals, and it is vital that those borders do not become barriers to the implementation of international criminal law. The bill will undoubtedly help to ensure that criminals can be tracked down and extradited on the basis of a speedy, open process that is consistent with the ECHR and duly overseen by the courts and, as is appropriate, by ministers. In that respect, the bill contains specific provisions that will ensure that the distinctive roles of Scottish ministers, of the Crown Office as a designated authority, and of the Scottish courts are safeguarded in relation to extradition.

Alasdair Morgan: This is a genuine inquiry. On my reading, there is an appeal from the High Court of Justiciary to the House of Lords. Will the minister confirm whether that sets a precedent, or does that happen already?

Dr Simpson: That will not occur in the Scottish context, and that is part of the respect for Scotland's individual judiciary. There will not be an appeal to the House of Lords in Scotland. I hope that that answers Alasdair Morgan's point.

The powers, including provisions relating to the courts and to the functions of the prosecutor, are in the correct form for Scotland. There is, as I have said, no appeal to the House of Lords on criminal matters, so English provisions in relation to such appeals are disapplied. Part 4 of the bill deals with powers to obtain search warrants and to seize and retain evidential material, again applying Scots law.

Christine Grahame: Will the minister give way?

Dr Simpson: I have already taken interventions.

Christine Grahame: It is a very brief point.

Dr Simpson: I am just about in the last minute of my speech.

The Deputy Presiding Officer: It is up to you, Dr Simpson.

Dr Simpson: I will not take Christine Grahame's intervention.

In England, those functions are initiated by the police, and English law in that area depends on the Police and Criminal Evidence Act 1984. However, that act does not apply in Scotland, where case management is firmly under the control of the procurator fiscal. Accordingly, a number of clauses in part 4 of the bill that depend on the 1984 act do not apply to Scotland, and we consider that we can rely on existing common and statute law here.

We recognise that the bill will modernise the UK's outdated and cumbersome statutory extradition framework and will put in place arrangements that will make the process more efficient, while respecting the human rights of those who are the subject of extradition requests.

Phil Gallie referred to a point made by Stewart Stevenson about the costs of the proposed arrangements. The current cost of an extradition is around £125,000 per case. By shortening the process to an expected 60 days without appeal, or 90 days with appeal, we confidently expect those costs to be reduced significantly, so that any additional cost burden to the Scottish Parliament would be outweighed by savings. Therefore, there are no financial implications. As I understand it, there are already provisions for legal aid in respect of extradition, so there is no need to introduce new

measures. Therefore, a financial resolution is not required.

Christine Grahame: Will the minister give way?

Dr Simpson: No. I am now well beyond my time limit. This time, the Deputy Presiding Officer will not allow me to accept an intervention.

I urge the Parliament to support the motion and to reject the SNP amendment.

Stewart Stevenson: On a point of order, Presiding Officer. I request a ruling on the necessity for a financial memorandum to the Extradition Bill. In doing so, I draw attention not only to legal aid, but to other matters in the bill, under the following headings: clause 59 on "Costs where extradition ordered"; clause 60 on "Costs where discharge ordered"; clause 61 on "Costs where discharge ordered: supplementary"; clause 130 on "Costs where extradition ordered"; clause 131 on "Costs where discharge ordered"—in particular clause 131(5), which states:

"An order under this subsection in favour of a person is an order for a payment of the appropriate amount to be made to the person out of money provided by Parliament";

clause 132, on "Costs where discharge ordered: supplementary"; and clause 182 on "Legal aid: Scotland".

Before we vote at decision time, it would be of great assistance if you could advise us whether those clauses have financial implications that will require payment from the Scottish consolidated fund, which would invalidate our voting on the motion.

The Deputy Presiding Officer: I think that the answers that were given by the ministers who opened and closed for the Executive indicated the Executive's view that the existing financial provisions cover those circumstances. However, I will seek advice on whether Mr Stevenson's question raises any issues for the chair. The Parliament will be advised on the matter later.

Business Motion

12:35

The Deputy Presiding Officer (Mr Murray Tosh): The next item of business is consideration of business motion S1M-3598, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Wednesday 27 November 2002

2:30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Enterprise and Lifelong Learning Committee Debate on its 9th Report 2002 on Lifelong Learning

followed by Parliamentary Bureau Motions

5:00 pm Decision Time

followed by Members' Business - debate on the subject of S1M-3565 John Swinney: A9 - Perth to Inverness

Thursday 28 November 2002

9:30 am Scottish Conservative and Unionist Party Business

followed by Executive Debate on Waste and Emissions Trading Bill - UK Legislation

followed by Business Motion

2:30 pm Question Time

3:10 pm First Minister's Question Time

3:30 pm Executive Debate on Domestic Abuse

followed by Parliamentary Bureau Motions

5:00 pm Decision Time

followed by Members' Business – debate on the subject of S1M-3580 Bill Aitken: Glasgow Acute Health Services Review

Wednesday 4 December 2002

2:30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Finance Committee Debate on its 5th Report 2002 on PPP/PFI

followed by Parliamentary Bureau Motions

5:00 pm Decision Time

followed by Members' Business

Thursday 5 December 2002

9:30 am Stage 1 Debate on Building (Scotland) Bill

followed by Financial Resolution in respect of Building (Scotland) Bill

14:30

On resuming—

followed by Executive Business

followed by Business Motion

2:30 pm Question Time

3:10 pm First Minister's Question Time

3:30 pm Executive Business

followed by Parliamentary Bureau Motions

5:00 pm Decision Time

followed by Members' Business

and (b) that the Justice 2 Committee reports to the Justice 1 Committee by 25 November 2002 on the Civil Legal Aid (Scotland) Regulations 2002, the Advice and Assistance (Scotland) Amendment Regulations 2002 and the Civil Legal Aid (Scotland) Fees Amendment Regulations 2002 and that the Transport and the Environment Committee reports to the Rural Development Committee by 6 December 2002 on the draft Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 and the draft Cairngorms National Park Elections (Scotland) Order 2003.—[*Euan Robson.*]

Motion agreed to.

12:36

Meeting suspended until 14:30.

Question Time

SCOTTISH EXECUTIVE

Urban Sub-post Offices

1. Robert Brown (Glasgow) (LD): To ask the Scottish Executive what business advice it is supplying to urban sub-post offices to expand their role. (S10-5935)

The Deputy Minister for Environment and Rural Development (Allan Wilson): Sub-post offices are eligible to receive the full range of business advisory services that the enterprise networks make available to small businesses.

Robert Brown: The minister will be aware that about a third of sub-post offices in towns and cities—perhaps 500 to 600 in total—are threatened with closure. Does he agree that such closures would be an unacceptable loss to local communities and particularly to older people, to say nothing of the 1,500 jobs that might be lost? Will he take action now to establish a Scottish task force along with Consignia and some of the national supermarket chains such as Spar and Mace to consider expanding and modernising post office services and developing new services? Scotland should lead the way on that crucial matter.

Allan Wilson: I am perfectly happy to liaise with the Royal Mail Group and with colleagues south of the border to ensure that we can assist the Post Office Ltd during the transitional phase. Since 26 March 2001, the Government's role in the Royal Mail Group has been that of a shareholder in a public limited company. Under the Government's reforms, the group has been given greater commercial freedom and has established an arm's-length relationship with the Government, so that its board can run the company on a commercial basis. I understand that that involves the Post Office Ltd in co-operation with many national chains and groups. I wish that to be expanded and I would like opportunities to be increased for people to use post office services in the localities that have been mentioned.

Pauline McNeill (Glasgow Kelvin) (Lab): Notwithstanding that reply, does the minister agree that small urban post offices, which serve many elderly and disabled people, would benefit from an expansion of services? For example, the Anderston post office in my constituency can open only two days a week.

Allan Wilson: I agree with what the member suggests. The Scottish Executive has received £1.5 million as a result of the £15 million that was allocated in England to establish a fund for post offices in deprived areas such as those that Pauline McNeill described. We acknowledge that post offices can play a pivotal role, especially in deprived areas, and we intend to establish a fund for post offices in deprived urban areas that will be similar to the model that is being developed in England. I expect to make an announcement on that in due course.

Miss Annabel Goldie (West of Scotland) (Con): Was that £1.5 million the money that the Department of Trade and Industry originally allocated to the Executive to prosecute the "Your Guide" pilot in Scotland?

Allan Wilson: No. The two funds are separate. The Executive is developing the equivalent of the Office of the Deputy Prime Minister's scheme to support core post office services and the development of associated retail facilities in deprived urban districts, as Robert Brown explained. As I said, I intend to announce shortly how the Executive will spend that money.

Ayrshire (Economy)

2. Mr Adam Ingram (South of Scotland) (SNP): To ask the Scottish Executive what measures it is taking to expand the Ayrshire economy. (S10-5934)

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): We are working with local partners in the Ayrshire economic forum, which agreed on 8 November the principles of an action plan to boost the economy and create jobs. We also continue to invest in transport services and infrastructure in Ayrshire.

Mr Ingram: Is the minister aware that 3,557 redundancies have been announced in Ayrshire in the past 12 months, compared with just 381 job gains, and that a job threat hangs over 1,000 workers at BAE Systems Aerostructures in Prestwick? Given that, does he agree that local strategies can do only so much and that what we really need is a vigorous Government with economic policies and action plans that are custom built for Scotland, not for south-east England?

Lewis Macdonald: I agree with that sentiment, which is why I fully support the economic strategy of the UK Government and the Executive, which is to put the focus on science and skills as the way of creating jobs in Ayrshire and right across Scotland in the future.

John Scott (Ayr) (Con): The minister is aware of the consultation document "The Future Development of Air Transport in the United

Kingdom: Scotland". He will also be aware of the feeling in Ayrshire that the report does not recognise adequately the impact of low-cost air travel on future airport development. Does he accept that, as the model is flawed—which means that the outcome of the consultation will also be flawed—the report is in danger of hindering the development of Prestwick airport and the creation of new jobs and economic growth in the Prestwick area?

Lewis Macdonald: No, I do not accept that at all. I accept, of course, the important contribution that Prestwick international airport is making to the economy of Ayrshire and, indeed, the economy of Scotland. That is why the consultation document identifies opportunities for Prestwick, as well as for Scotland's other major airports, to expand in the future.

The member made a point about the projected figures for low-cost air travel. I recognise that low-cost airlines are a relative newcomer to the market. We do not yet know their capacity for growth, but if it exceeds the figures that are given in the consultation document, no one will be more pleased than the minister with responsibility for transport.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Does the minister agree that the upgrade of the A77 to motorway status will provide opportunities to build and expand the economy of Ayrshire? Will he undertake to ensure that Scottish Enterprise actively promotes that opportunity in advance of the award of the tender for the upgrade?

Lewis Macdonald: Yes. Scottish Enterprise Ayrshire is already doing good work in promoting the new road connection to the Glasgow area as a gateway to Ayrshire and as an opportunity for economic development. We very much encourage Scottish Enterprise Ayrshire to continue doing that and to work in partnership with the local economic forum in advancing those economic opportunities.

Small Towns (Development)

3. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the Scottish Executive what steps it is taking to promote the development of small towns. (S10-5907)

The Minister for Social Justice (Ms Margaret Curran): We have published advice in planning advice note 52, "Planning in Small Towns".

Murdo Fraser: The minister will be aware of the continuing economic decline of small towns in rural areas, which is largely the result of the decline in income from the agricultural sector. Where there are local initiatives to try to reverse that decline, such as the proposal to designate Blairgowrie in my area as Scotland's game town,

what help can such small towns expect from the Executive? In particular, will the business recovery fund that was set up following the foot-and-mouth outbreak be extended to provide help to such initiatives, as has happened south of the border?

Ms Curran: I will try to be as specific as I can be within my portfolio responsibilities. Planning policy should support Scotland's economic competitiveness across the range of places in Scotland, whether villages, towns or cities. We want the planning system to do that. We would work across the Executive and across interests to ensure that we can support small towns in the economic circumstances that they face. We would try to join up Executive interests across departments to do that.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): On the effects of the rundown of the Ministry of Defence's West Freugh base on the development of Stranraer, will the minister or one of her colleagues undertake to pressure the Ministry of Defence to release as many of the land-based assets of the base as possible so that they can be used by alternative commercial developers?

Ms Curran: Implicit in the member's question is the acknowledgement that the Ministry of Defence has a strong interest in doing that. I cannot tell the member of any conversations that I would have with the Ministry of Defence on that subject. In respect of how land use development is progressed, the Executive always tries to maximise economic opportunities in tune with the needs of local people and local economic interests.

Rhona Brankin (Midlothian) (Lab): My constituency of Midlothian borders on the city of Edinburgh, which has a rapidly growing economy. Will the impacts of that situation on such constituencies be taken into consideration in any policy development on cities?

Ms Curran: Through the planning system, we would ensure that the different interests of different towns and cities are properly accommodated. That would allow us to understand whether the economic expansion of Edinburgh, for example, has a knock-on effect. The review of strategic planning picks up on those issues. I am sure that any consequences of the cities review for towns that surround those cities will be a matter of discussion following the publication of the review.

The Presiding Officer (Sir David Steel): Question 4 is withdrawn.

Less Favoured Area Support Scheme

5. Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): To ask the Scottish

Executive how it will revise the less favoured area support scheme with regard to minimum stocking densities. (S10-5927)

The Minister for Environment and Rural Development (Ross Finnie): I acknowledge the member's particular interest in the matter, which affects certain aspects of his constituency. The minimum stocking density provision in the less favoured area support scheme for 2003 followed consultation and was agreed earlier this year by the industry working group, which included the Scottish Crofting Foundation. The new arrangements have been agreed by the European Commission. However, although there is no opportunity to change the overall scheme, we will continue to review minimum stocking density provision and, where appropriate, we will seek changes for the future.

Mr Stone: From the number of times that I have raised the issue, the minister will be well aware that a sector of the crofting community in the most marginal areas is losing out, despite the agreement and the fact that additional money is being allocated. For example, in areas of west Sutherland and Wester Ross, crofters are losing as much as £1,000 per croft. Such a situation fundamentally threatens crofting in the most fragile areas. Will the minister please undertake to examine that sector with a view to righting that wrong?

Ross Finnie: As I have indicated, I am aware of the matter that the member has raised. The application of the scheme has caused concern across the area that he represents. However, the difficulty is that the situation is not uniform. For example, as far as the total amount is concerned, the crofters represented in the Lairg office have gained 5 or 6 per cent compared with what they would have received under the hill livestock compensatory allowance scheme, which the less favoured area scheme replaced in 2000. Indeed, 53 per cent have gained under the scheme and the figure for Thurso has increased by 10 per cent. However, I am aware that the scheme is not operating in that way for everyone, which is why we need to keep it under close review.

Mr Alasdair Morrison (Western Isles) (Lab): Does the minister agree that funding under the less favoured area support scheme should, by definition, be distributed in areas such as the Western Isles and Jamie Stone's constituency, where crofters face a great number of challenges, including the quality of arable land, the distance from markets and climatic problems? Moreover, will he agree to a meeting in Edinburgh with crofting representatives from the Western Isles, who have a number of queries about the formula that is being applied?

Ross Finnie: I am very happy to do so.

White Fish Stocks

6. Richard Lochhead (North-East Scotland) (SNP): To ask the Scottish Executive whether any new scientific work has been commissioned with regard to white fish stocks. (S10-5918)

The Minister for Environment and Rural Development (Ross Finnie): Yes. We continue to review the research programme of our marine laboratory as necessary. In light of recent announcements, the whole issue of white fish stocks is clearly our top priority.

Richard Lochhead: Has the minister taken any steps to investigate why European scientists have not assessed the impact on white fish stocks of their recommendations on total allowable catches for the industrial fishery in the North sea? That fishery simply hoovers up juvenile white fish to turn them into soup for pigs and chickens, removing the cod food supply from the North sea. Will the minister get his scientists to start working to defend Scotland's fishermen and ensure that Europe hits the right target, which is the industrial fishery, not our fishing communities? Will he also acknowledge that the European Commission's proposal to cut quotas by 80 per cent would devastate those communities?

Ross Finnie: I think that we all agree with the feeling behind Mr Lochhead's final question. We should see that proposal as Mr Fischler's opening gambit, but, even so, it is certainly unacceptable to every member in the chamber.

I regard dealing with the lack of scientific evidence in support of the continued use of the industrial fishery as a priority. The use of the pout and sand eel fishery for industrial purposes is a clear threat to the underlying supply in the North sea. We are investigating those and other issues with our scientists with a view to asking a broader scientific body the relevant question.

Elaine Thomson (Aberdeen North) (Lab): The minister will be aware of the recently published Fisheries Research Services industry-science partnership reports on joint work between fishermen and scientists, which appears to have been very successful. Does he agree that increased partnership and joint working is needed between the fishing industry and the science community to increase confidence in fish stocks reporting? Does he agree that that should include all sectors that are interested in a healthy marine ecosystem, including fish processors, catchers and scientists?

Ross Finnie: Yes. I congratulate the member on having read those reports, which were published only a day or two ago. They are a lengthy read but demonstrate clearly the point that she makes that co-operation and collaboration between the industry and scientists is essential.

She is right that the reports' conclusions are supportive of what we have been trying to do. We need to take that further. Both reports are a clear indication of how valuable the work has been for both sides.

Mr David Davidson (North-East Scotland) (Con): Will the minister explain to the chamber why he thinks Franz Fischler is pressing for a total closure this year, given that the scientists have shown that the stocks are healthier than they were last year, when Franz Fischler did not press for such a ban?

Ross Finnie: That is one of the issues that we are trying to reconcile with great and increasing difficulty. Mr Fischler has his position, but the negotiating stance that he has taken as an opening gambit is wholly unacceptable. I want to ask scientists that question, too. As the member will know, their work is in two parts: the evidential base and their recommendation. There is clearly tremendous inconsistency between the nature of the advice and the information on which it is based. There are also issues about the fact that scientists have rebased some of the data. Those are some of the matters with which my officials and I are dealing to try to determine whether we can understand better the change to which the member referred.

Dr Winnie Ewing (Highlands and Islands) (SNP): Did the Scottish Executive press the European Commission for a scientific assessment of the conservation measures that Scottish fishermen have taken? If it did press, did it succeed? If it did not press, why not?

Ross Finnie: I understand perfectly the point that Winnie Ewing makes, but we should be clear that it is not for Governments or the Commission to determine the way in which the scientists—who represent the principal scientific groups from the member states that have an interest in the North sea—conduct their inquiries. It is regrettable that the database from which the evidence has emerged is, by its nature, some six to nine months out of date, which is what the member was referring to. The point that the Scottish Executive has been making is that, rather than just looking at evidence of a trend in the stocks, the European Commission must take account both of decommissioning and of the technical measures that have been put in place since the essential database was produced.

School Transport

7. Karen Gillon (Clydesdale) (Lab): To ask the Scottish Executive what measures it is taking to ensure the safety of children conveyed by school transport. (S10-5943)

The Minister for Education and Young People (Cathy Jamieson): Local authorities must keep safety issues under continual review. We plan to update and reissue current Executive guidance on school transport.

Karen Gillon: Does the minister accept that there is still considerable concern in constituencies such as mine where there have been tragic deaths of people being conveyed by school transport? Will she undertake to liaise with local authorities, particularly about the types of vehicle that are used for school transport and the training that is given to staff on those vehicles? Will she also continue to liaise with the United Kingdom Government about the statutory use of seat belts in all vehicles that are used for school transport?

Cathy Jamieson: I am well aware of the issues that Karen Gillon raises. I believe that it is important that we revisit the relevant circular, which was issued back in April 1996. We will liaise with all the relevant authorities to ensure that we protect our children who travel on school transport.

Michael Russell (South of Scotland) (SNP): In considering the guidance on school transport, will the minister confirm that communities should as far as possible be kept together for transport purposes rather than divided? The case to which I refer is in Ashgill in South Lanarkshire, where a small number of pupils are denied transport while the majority of the village has it. That is an important safety consideration, particularly on winter nights.

Cathy Jamieson: The regulations allow for local authorities to take into account aspects of school safety at all times when they are considering transport and I would expect them to do that.

Severe Weather (Gritting)

8. Mr Brian Monteith (Mid Scotland and Fife) (Con): To ask the Scottish Executive whether any provision is in place to assist local authorities with additional gritting should there be a particularly severe winter. (S10-5925)

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): Gritting of local roads is the responsibility of local authorities, and it is for each council to identify adequate resources to meet adverse winter weather conditions.

Mr Monteith: The minister will be aware that Stirling's Labour-SNP-controlled council is to reduce by a fifth the length of its priority gritting routes in an attempt to restrict winter maintenance expenditure. Does he share my concern about that situation? Does he agree that the council's decision is ironic, coming as it does after his announcement just this week of ring-fenced money for safer streets in the Stirling Council area?

Lewis Macdonald: It is certainly not for ministers to second-guess the decisions of local authorities, whatever party they are controlled by. We expect local authorities to plan adequately, and, when they make their plans, to take cognisance of the weather conditions that they can predict for their own areas and of their responsibilities for the local road network. We also expect them to work jointly with the police and the trunk road operating companies to ensure a co-ordinated approach to maintaining the safe flow of traffic during the winter months.

Dr Sylvia Jackson (Stirling) (Lab): Does the minister agree that, although extra money from the Scottish Executive is always welcome, Stirling Council's efforts in relation to gritting local roads are good, both in terms of the number of classified category A roads that it has compared with neighbouring authorities and in terms of the funding increase, however slight, over last year's figures?

Lewis Macdonald: It is certainly the case that Stirling has more than its fair share of main roads that lie outwith the trunk road network, and the council has made significant efforts to maintain that infrastructure and keep roads clear in winter. Stirling Council should be commended for that work. It recognises the importance of spending money on roads, as do many other councils. It is the responsibility of local authorities to carry out that work, and I have no reason to doubt that they will do that this winter, as they did last winter.

Christine Grahame (South of Scotland) (SNP): Does the minister agree that failure to grit roads in the Scottish Borders timeously last winter was both unacceptable and dangerous? Does he further agree that the solution lies in privatising trunk roads maintenance, ripping up the Amey contract and providing proper funding for local authorities to do the job, so that they can be held democratically accountable when the job is not properly done?

Lewis Macdonald: I would be interested to know how much expenditure Christine Grahame is committing her party to, given the implicit terms of that question. It is important to say that the responsibility for trunk roads lies as clearly with the operating company as the responsibility for local roads lies with the local councils. That is why we have in place a performance audit group to carry out independent audits of the performance of the trunk road operating companies. Information about that is available in the Scottish Parliament information centre for any member who cares to read it.

Mr Keith Raffan (Mid Scotland and Fife) (LD): Is the minister aware that a number of local authorities are seriously concerned about being unable to gain access to local roads to clear and

grit them unless the trunk roads are kept clear? What assurance can he give us that trunk road maintenance companies will deal with the problem routes quickly? Let us deal with the situation as it is, not as it would be in cloud-cuckoo-Grahame-land.

Lewis Macdonald: Keith Raffan makes a fair point. We recognised that there is a close relationship between the trunk road network and the local road network when it comes to maintaining the free flow of traffic. That is why this year we have encouraged local authorities to hold a winter maintenance conference with the operating companies, the police and ourselves to address those issues and to find ways of resolving them in advance of the worst winter weather.

The Presiding Officer: Question 9 is withdrawn.

Street Traders (Regulation)

10. Donald Gorrie (Central Scotland) (LD): To ask the Scottish Executive whether the existing powers of councils with regard to the regulation of the sale of unofficial merchandise by street traders outside football grounds are inadequate and, if so, whether it will strengthen such powers. (S10-5921)

The Deputy Minister for Finance and Public Services (Peter Peacock): Local authorities have powers to license street traders and to attach such conditions to those licences as they consider appropriate, including banning the sale of paramilitary material. Any breach is a criminal offence, and it is also open to local authorities to suspend a licence. In light of that, we do not consider that any additional powers are required.

Donald Gorrie: That is encouraging because when I corresponded with Glasgow City Council earlier in the year, it clearly thought that it had inadequate powers. Will the minister ensure that Glasgow City Council fully appreciates what he has just said?

Peter Peacock: There have been recent exchanges between Dr Simpson, who chairs the cross-party group that the Executive has set up to look at legislation, and Glasgow City Council. The council has recently written back confirming that it is well aware of the powers. In fact, it has made it clear that only football memorabilia are authorised to be licensed and sold outside football grounds. It has recently been in touch with traders to remind them of that and with Strathclyde police to ask for help with enforcement. Therefore, Glasgow City Council is well aware of the problem and is taking appropriate action to clamp down on it.

Ms Sandra White (Glasgow) (SNP): I applaud Donald Gorrie's tenacity on the subject. Will the minister join me in congratulating North

Lanarkshire Council on its implementation of the section in the Licensing (Scotland) Act 1976 that relates to anti-sectarianism and anti-racism, which led to the suspension of the licences of two public houses with sectarian associations? Will he support me in urging other councils to follow that example?

Peter Peacock: Such matters are left to local authorities, which are in the best position to exercise local judgment, and I am happy to leave North Lanarkshire Council to exercise that judgment.

Nephrops

11. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): To ask the Scottish Executive whether it will now seek to negotiate a reinstatement of the 10 per cent reduction in the west of Scotland nephrops quotas. (S10-5911)

The Minister for Environment and Rural Development (Ross Finnie): There is no question about whether the Scottish Executive will now do so; we are already pursuing the case for the restoration of the west of Scotland nephrops total allowable catch to the historic level that it reached in 2002.

Fergus Ewing: Does the minister agree that, unlike other species, prawns are in plentiful supply? Is he aware that only 4 tonnes of the 1,204 tonnes that have been landed in west coast ports in the past 12 months were of cod? The bycatch is not only incidental—it is near zero. Will he visit Mallaig to hear at first hand the fishermen's concerns and their fears of a bleak future unless the cut is reinstated?

Ross Finnie: It goes without saying that I would not actively pursue the Commission if I was not aware of the facts to which the member referred. The case is clear. We put the issue of the association between nephrops catches and bycatches of cod to the Commission well over a year ago. As I said in answer to the member's first question, we have reopened the case and we are actively pursuing it. I am always happy to meet members who are affected by the matter and I have made it clear that the Scottish Executive's negotiating position is that, under the current arrangements, we are opposed to any cuts in the nephrops fishery.

George Lyon (Argyll and Bute) (LD): In view of the scientific evidence that has been presented to the Commission, will the minister explain why the Commission has completely rejected the argument that the 10 per cent cut should be reinstated? Given the evidence that has been put forward, will he make a stab at explaining why the Commission should make the ludicrous proposal to cut prawn quotas again this year? That proposal should be swept from the table forthwith.

Ross Finnie: I can do many things, but trying to get into the mind of the Commission is not something that I or probably any other minister in the European Community can do. I cannot give an explanation—I can reiterate only that the present position is untenable. We continue to make our position clear to the Commission. It has received the evidence, which we have resubmitted. We continue to make our position clear: there is no justification for reducing the nephrops fishery catch.

Mr Jamie McGrigor (Highlands and Islands) (Con): The Scottish Executive already has in its hands evidence that prawn fishing does not take significant bycatches of cod. Does the minister recognise that almost 90 per cent of the prawn quota is in British hands? Will he ensure that, aside from the 10 per cent that should not have been taken away in the first place, there will be no further cuts? Can he get Franz Fischler to guarantee that there will be no further cuts in the industry, which will come under huge pressure thanks to what is going on in the demersal fishery?

Ross Finnie: With all due respect, the member's questions are not entirely dissimilar to George Lyon's questions, which were based on Fergus Ewing's question in the first place. If the member was not listening to my first answer, I will repeat it: we are opposed to a reduction in the nephrops fishery. I cannot give a guarantee, but on the third time of asking, I am happy to give the same response.

Rough Sleeping

12. Mr Kenneth Gibson (Glasgow) (SNP): To ask the Scottish Executive whether rough sleeping will have ended by 1 May 2003. (S1O-5905)

The Deputy Minister for Social Justice (Hugh Henry): The programme for government target and the social justice target is that, by 2003, no one should have to sleep rough. We will never stop people sleeping rough who choose to do so, but sufficient resources have been, and continue to be, made available to ensure the provision of appropriate services and accommodation to meet the needs of those who find themselves roofless. In addition, since September 2002, local authorities have had a duty to provide temporary accommodation, advice and assistance to everyone who has been assessed as homeless.

Mr Gibson: Given that the minister has said that rough sleeping is likely to be with us for a considerable time, does he agree that it was not only crass and insensitive but downright dishonest for the Deputy First Minister to state on "Newsnight Scotland" on 20 October:

"The Liberal Democrats will have ended rough sleeping by 1 May 2003"?

Hugh Henry: I am aware of neither that interview nor the context in which the comment was made. What the Executive has done is clear. The coalition has provided significant resources and we will continue to do so. More than 800 bed spaces have been provided along with more than 30 outreach projects, 11 rent deposit schemes, nine health projects and six prison-based advice and support projects. We have done everything that we believe necessary to create the conditions for the ending of rough sleeping. We will continue to act jointly on the matter.

Mrs Lyndsay McIntosh (Central Scotland) (Con): Apropos of Mr Gibson's comments, if the minister is relying on the Liberal Democrats, he will still have the problem in 2013.

The Presiding Officer: Is that a question?

Mrs McIntosh: Will the minister respond to that, or does he have plans for the Liberal Democrats?

The Presiding Officer: No. We must have a question.

Robert Brown (Glasgow) (LD): I congratulate the minister on the efforts that have been made. Does he agree with the view of a number of the homelessness agencies that have told me that the burden of rough sleepers initiative spending may have veered a little bit too far towards advice, with too little going into the support and bricks-and-mortar facilities that are needed? Those agencies doubt whether the target of ending the need to sleep rough by 2003 will readily be met.

Hugh Henry: No. The resources have been targeted at a range of support services, not just at advice. We recognise that some people who require support and assistance have complex needs and money is going into a diverse range of support services. As far as we are concerned, the physical places are being made available. The most recent estimate was that there were more places throughout Scotland—including Glasgow and Edinburgh—than there were people sleeping rough. However, we are aware that there is an issue about the quality of the accommodation, which we are investing heavily in through our Glasgow hostels decommissioning programme. We are aware of some of the problems that are caused by inappropriate accommodation; I think that we have got the balance right, but we will continue to monitor the situation.

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): Aside from issues of bricks and mortar, does the minister agree that vulnerable people also need information, advice and support if they are to avoid rough sleeping? Can he also indicate—aside from the Liberal Democrats—the prevalence of rough sleeping in Scotland?

Hugh Henry: I agree that information and advice must be provided. Local authorities are

charged with the responsibility of ensuring that everyone who requires the relevant information is provided with it. We are waiting on the latest target figures from our census. When the figures are available, I will ensure that Brian Fitzpatrick gets a copy of them.

Whales and Dolphins (Sonar)

13. Robin Harper (Lothians) (Green): To ask the Scottish Executive what discussions it or its agencies and non-departmental public bodies have had with Her Majesty's Government or the Royal Navy regarding the use of low-frequency active sonar and its effect on whales and dolphins. (S10-5926)

The Deputy Minister for Environment and Rural Development (Allan Wilson): The Scottish Executive environment and rural affairs department and Scottish Natural Heritage are involved in regular liaison meetings with the Ministry of Defence and the Royal Navy, at which a range of issues, including the use of sonar, is discussed. Following the annual meeting of the MOD liaison committee on environmental matters on 2 October 2002, the MOD reported that substantial work and resources are going into environmental impact assessments. Those assessments are undertaken prior to trials in order to identify appropriate mitigation measures with respect to the impact of sonar on cetacean behaviour.

Robin Harper: Research off the coast of the United States has shown that low-frequency active sonar has a deleterious effect on whales—I believe that its use is already banned from some coastal areas in the United States. Given that whale watching off the west coast of Scotland is growing in popularity, will the minister, in defence of our tourism industry, make representations to prevent the testing of low-frequency active sonar off our coast? I draw the minister's attention to the fact that Greenpeace's ship, the Rainbow Warrior, is in Leith at the moment.

Allan Wilson: I welcome the opportunity to address public speculation on that issue, which was initiated by the normally reliable *West Highland Free Press* and which the much less reliable Mr Robin Harper repeats. The Scottish Agricultural College's veterinary service, which co-ordinates information on strandings in Scottish waters, has advised us that 12 strandings were reported in January 2002, compared with eight in January 2001. The figures for February 2002 and February 2001 were nine and 13 respectively. There is no evidence of an increased number of strandings in the vicinity of the tests. EIAs are undertaken for all trials and it is MOD policy to publish such documents, when there are operational reasons for so doing.

Roads (Tolls)

14. Andrew Wilson (Central Scotland) (SNP): To ask the Scottish Executive whether it will rule out imposing tolls or charges on any new or upgraded roads. (S10-5914)

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): We have no current plans to impose tolls or charges on the trunk road network, but we will continue to explore all available options for tackling congestion.

Andrew Wilson: What are the minister's plans for the upgrade of the A80? Does he recognise that, contrary to his answer to me of 7 November, the central Scotland transport corridor study notes explicitly the need for demand management and highlights the potential for congestion charging or road-user charges—in other words, tolls? How can the people of central Scotland conclude anything other than that the Government plans to impose a new poll tax on them for the use of the roads in their area?

Lewis Macdonald: I am sure that the people of central Scotland will come to conclusions about what we will do with the A80 when we announce our decision, which we expect to do in the next few weeks.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I know that the minister is considering the responses of the public to the recommendations of the transport corridor study, some of which are on tolls and charges. Will he assure me that he will consider the views of the Kilsyth pensioners who signed my petition on the matter—some of whom are in the public gallery—and who oppose the recommendations in the study? Will he confirm that he expects to make an announcement on the matter before the end of this calendar year?

Lewis Macdonald: We expect to make an announcement soon. For the removal of doubt, I clarify that none of the recommendations in the consultant's report is for the introduction of tolls or charges on the A80 in the period that is under discussion. I confirm that we will consider carefully the consultant's recommendations, the responses to the consultation process and the views that have been expressed by the community that Cathie Craigie represents and other communities in the affected area.

Phil Gallie (South of Scotland) (Con): Is the minister aware of the importance of the southern section of the A77, particularly for through traffic to Northern Ireland? Is he aware of the problems in Maybole, which is totally unsuited to the volume of traffic that goes through it?

The Presiding Officer: The question was about charges.

Phil Gallie: Does the minister have any plans—involving tolls or otherwise—for the provision of a bypass for Maybole?

Lewis Macdonald: We have no plans for tolls in Maybole.

Schools (Investment)

15. Mr John McAllion (Dundee East) (Lab): To ask the Scottish Executive what discussions it has had with local authorities with regard to using joint-venture companies as a vehicle for investment in schools. (S1O-5924)

The Deputy Minister for Finance and Public Services (Peter Peacock): The Executive is aware that some councils are considering the joint-venture approach. Substantive discussions will take place on specific proposals in the context of the outline business cases that the councils will submit to the Executive.

Mr McAllion: According to Dundee City Council, joint-venture companies attract private investment and ensure that 90 per cent of any profits that are generated are reinvested in schools. Such companies also ensure that cleaning, facilities management and property maintenance are subcontracted to council departments and workers. Given that view, why has the Scottish Executive not dumped the hated public-private partnerships and replaced them with joint-venture companies?

Peter Peacock: It is entirely possible to promote a joint-venture approach within the context of PPP, and we are open to innovative approaches. There are tried and tested methods of delivering school building programmes that have significant advantages. We are seeking to minimise risk and enable the quick delivery of the school building programme that we have established. It is the biggest school building programme this century, and we will consider any sensible proposals in that context.

First Minister's Question Time

15:10

Secretary of State for Scotland (Meetings)

1. Mr John Swinney (North Tayside) (SNP): To ask the First Minister when he next plans to meet the Secretary of State for Scotland and what issues he intends to raise. (S1F-2270)

The First Minister (Mr Jack McConnell): Following the visit of pupils from St Ninian's Primary School to the Parliament this morning, and their exhortation to us to use the Scots language, perhaps I should tell the Secretary of State for Scotland at our next meeting that she should ignore the girning and greeting of the Opposition, admire a Government and a coalition that are hoatching with talent, and be chuffed when we win the elections next year.

Mr Swinney: Perhaps she should also forget the blethering and the haivering from the Executive's part of the chamber.

I thank the First Minister for his answer, and compliment him on his initiative this morning in relation to the celebration of St Andrew's Day, which will be warmly supported on this side of the chamber. I also congratulate him on surviving a year in office as First Minister.

When the First Minister took office 12 months ago, he said that he wanted to be judged on the integrity of his actions. Is it not clear that the First Minister has failed to convince not only the people of Scotland about that integrity, but his local Labour party? I ask the First Minister what action he plans to take to restore his integrity in office.

The First Minister: I am happy to reflect on the past 12 months and the way in which the Government of Scotland is being run, with a more open and transparent system in everything from briefing our good colleagues in the press to the way in which matters are handled in the chamber.

I am happy to reflect on a new agenda for Scotland that covers issues as diverse as environmental justice, sectarianism and growing our economy. I am also happy to reflect on specific achievements: 20,000 modern apprenticeships; new youth courts and fast-track children's hearings; Scotland's first national park; the biggest school-building programme that Scotland has ever seen; and the purchase of the Health Care International hospital at Clydebank for the national health service.

Mr Swinney: My question was about the First Minister's integrity in office. Today, the First Minister has been accused by a member of his own party—[MEMBERS: "Look behind you."]

The Presiding Officer (Sir David Steel): Order. Members must listen to the question.

Mr Swinney: I may have my critics, but none of them accuses me of obstructing inquiries into theft, which is what has been alleged in the newspapers today. The First Minister has been accused of obstructing an inquiry, issuing contradictory answers and misleading Parliament. Does the First Minister not accept that the only way for him to conclude the matter—which he has admitted is preventing him from getting on with his job—would be to make a full disclosure of all the issues and information in the case?

The First Minister: As I have said before, it would be an irresponsible First Minister who would prejudice a police inquiry by providing information that should be provided only to the police. I hope that Mr Swinney will reflect on that.

As I have also said before, it is vital that the position of First Minister is upheld with the utmost integrity, openness and transparency. It is important that First Ministers build trust in their policies as well. The policies that have been implemented over the past 12 months—introducing real action to tackle drugs; to tackle crime; to boost and grow our economy; to tackle the problems in our health service; and to raise educational standards—show the integrity of this office. I am concentrating on the priorities of the people of Scotland and not being deflected by political enemies, whether internal or external.

Mr Swinney: This has got nothing to do with a police inquiry. Unless I have missed something, the First Minister is not under investigation by the police—or perhaps he has something else to tell Parliament.

The First Minister says that his integrity is built on what he delivers in the public services. Perhaps his integrity should be built on telling the truth to his party and to Parliament. The First Minister says one thing in the Parliament while members of his constituency party say the opposite. Both versions cannot be true. Somebody is not telling the truth. Does the First Minister accept that, without full disclosure on this case, the public might be left with the suspicion that in this saga the First Minister is not telling the truth?

The First Minister: Over the past three and a half years, that is exactly the sort of trivia and obsession with matters that are not the substance of Parliament that have led us to a situation whereby people in Scotland have lost confidence, at times, in the Scottish Parliament. The best way for us to renew that confidence and to ensure that the people of Scotland believe that devolution can make a difference for them is to ensure that our policies are consistently implemented, our promises are delivered and that we have action on key services.

The Scottish National Party wants to talk about trust and consistency, but only today the SNP

called for the introduction of drug courts in Scotland for drug dealers. People across Scotland want to see us locking up the dealers in our prisons, taking the dealers' profits and putting them back into the community, and preventing drugs from getting into the country. People in Scotland do not want drug dealers to be sent to drug courts where the maximum sentence might be 28 days. That is nonsense. The SNP's policies are not consistent. Only by consistent policies will we change Scotland.

Prime Minister (Meetings)

2. David McLetchie (Lothians) (Con): To ask the First Minister when he will next meet the Prime Minister and what issues he intends to raise. (S1F-2272)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister. However, tomorrow I will host the British-Irish summit in New Lanark. It will be the first time that the summit has been held in Scotland. In addition to representatives from the Westminster Government, the Irish Taoiseach and the First Minister of Wales will attend the summit.

David McLetchie: I wish the First Minister well in those important discussions. However, when he gets round to meeting the Prime Minister, I am sure that he will be interested to hear the First Minister's views on the rising costs of the new Parliament building at Holyrood. As members will know, at the time of the referendum, £40 million was the all-inclusive cost for a new-build Parliament in Leith. I have a letter from Sir Muir Russell, the permanent secretary, which confirms that and which can be inspected at Labour members' leisure.

The cost of the Holyrood building is now well over £300 million, which is nine times the original estimate. This week the First Minister said in an interview that the Holyrood building has been the

"single biggest disappointment in devolution."

He is right; in fact, it is a national scandal. However, does the First Minister accept that we have arrived at this situation because of the political decisions that were taken by a Labour Government, because of the votes that were cast on four separate occasions in the chamber by Labour and Liberal members, and because of the blank cheques that were signed by successive ministers for finance, including Mr McConnell? Is Holyrood not, in fact, the house that Jack built?

The First Minister: A good try, would be a good response to that. As Mr McLetchie is aware, I share the public concern that has existed for some time about the rising costs of the Holyrood building. However, I have also said consistently, before and since becoming First Minister, that in

addition to ensuring that there is maximum control over the Holyrood expenditure and that the building is completed as quickly as possible, we must finish the project. We would be in an even worse situation if the building were left in some hiatus because of political debate.

Therefore, I think that we should all regret and learn some serious lessons from the situation that has arisen; I welcome the Presiding Officer's comments this week when he made that very point on behalf of the Scottish Parliamentary Corporate Body. I also think that it is important that the finished building is a building that Scotland can be proud of and that all of us, regardless of what we might think of what has taken place over the past four years, should get on with the business of publicising the new Parliament building.

David McLetchie: We all know that the First Minister is not very good with money. However, while John Swinney has been asking about a few thousand pounds in Wishaw, I am asking the First Minister about at least £280 million, for which he and his colleagues are most certainly responsible. It is public money—coming out of their budget, for which they are responsible—that should have been spent on schools, hospitals and roads but has instead been wasted on Holyrood. The First Minister says that he regrets the situation, but if he even half-heartedly acknowledges that his Government and his predecessors have been responsible for wasting £280 million in the first four years of this Parliament, how can we have any confidence that they will manage the public finances any better in the next four years?

The First Minister: Each June, when the money that is carried over from one year to the next is allocated in the budget, Mr McLetchie is keen to point out that not enough money is being spent and that the budget is under too much control. He should be consistent in his accusations. The budget of the devolved Scottish Government is well under control. The Executive has never overspent in the three-and-a-half years of devolution and the individual—

Tommy Sheridan (Glasgow) (SSP): It has underspent by far too much.

The First Minister: Even the individual projects—

Tommy Sheridan: There was an underspend of £643 million last year.

The First Minister: Mr Sheridan might be keen on chucking public money around willy-nilly, but I am not. Spending public money properly is the key job of this devolved Government and ensuring that money that is not properly spent in one financial year is carried over into the next financial year is another.

In all those areas, the Scottish Executive budget that I am responsible for is well managed. We should all—including the Conservatives, who have a representative on the Scottish Parliamentary Corporate Body, which is responsible for the Holyrood project—accept our responsibilities, learn lessons and ensure that a similar escalation of costs never happens again.

Tavish Scott (Shetland) (LD): Does the First Minister accept that BP's decision yesterday to cut 40 per cent of the jobs at the Sullom Voe oil terminal in Shetland is a serious blow to the islands' economy, especially when it is faced with the impending devastation of the fishing cuts? Will he ensure that the enterprise agencies and local council are given adequate resources, through such investments as the fibre optic cable and potential renewable energy projects, to tackle that likely economic downturn?

The First Minister: In the future, those and other measures would be helpful to the economy, not only in Shetland, but in the rest of the Highlands and Islands. Those communities have received bad news, but, in the past year, Shetland and elsewhere have been given the good news that, after decades of decline, the population of the Highlands and Islands is increasing. The Highlands and Islands have witnessed a renaissance of strong and sustainable cultural and economic activity. Also, there is evidence of new opportunities, not just in renewable energy, but through other forms of energy and measures that will give the economy of the Highlands and Islands the boost and opportunities that Parliament would welcome.

Drugs Courts

3. Paul Martin (Glasgow Springburn) (Lab): To ask the First Minister what success the introduction of drugs courts has had in reducing crime and drug addiction. (S1F-2281)

The First Minister (Mr Jack McConnell): The six-month evaluation of the Glasgow drugs court, which was published last week, concluded that the initiative is a success. All those on drugs court orders reported significant reductions in drug use and offending, which is supported by evidence from the drugs court team. The full impact of the drugs court will be known when the evaluation is complete.

Paul Martin: Does the First Minister agree that the challenge that we face is not just ensuring that the drugs courts work, but ensuring that local communities see a decline in the activities of drug dealers? Will he accompany me to the Blackthorn Street area of my constituency to meet local people who are affected by the activities of drug dealers?

The First Minister: I would be happy to do that, diary permitting. I am also happy to recognise the importance of both parts of the strategy to tackle drug abuse in Scotland. On the one hand, we need to be very tough on the dealers. We must ensure not only that we lock up more dealers in Scotland, but that we lock up the right dealers and get them at the right time. We must ensure that we lock up the big dealers and that we take their profits from them and put those profits back into the community. On the other hand, we need drugs courts and other measures to ensure that the proper treatments are in place to stop people using drugs and to ensure that the dealers do not have a market for what they want to sell.

Silly proposals about sending drug dealers to drugs courts do not help that debate. I want to ensure that, in Scotland, we get the dealers and get people off drugs too. *[Interruption.]*

Floods (Moray)

4. Mrs Margaret Ewing (Moray) (SNP): To ask the First Minister what financial and practical assistance the Scottish Executive will give to the people of Moray following the flooding in the area at the weekend. (S1F-2273)

The First Minister (Mr Jack McConnell): On a point of order, Presiding Officer. Before I answer that question, I should answer the accusation that was being shouted at me. I will quote from the Scottish National Party's press release from this morning, which says that the SNP pledges to introduce drugs courts

"to use the full force of the law on those individuals who are profiting from drugs."

In answer to question 4—*[Interruption.]*

The Presiding Officer: Order.

Mr John Swinney (North Tayside) (SNP): The First Minister should read the whole paragraph.

The Presiding Officer: Order. Just a minute.

Christine Grahame (South of Scotland) (SNP): On a point of order, Presiding Officer.

The Presiding Officer: Just a minute. I am dealing with a point of order. Sit down.

Nobody should shout from a sedentary position in the first place. The First Minister should ignore such sedentary interruptions, which are not in order.

Can we come to the answer? We have an important question about the flooding that took place at the weekend. Let us get on with it.

The First Minister: The flooding in Moray has caused significant upheaval and distress for those who live in the areas affected. I am therefore pleased to announce the activation of the Bellwin

scheme, to make available financial assistance to Moray Council in dealing with the immediate impact of the flooding, and to confirm that a special ministerial group is looking urgently at the steps we can take to anticipate and address the issues, not only in Moray, but elsewhere in Scotland.

Mrs Ewing: I am pleased that the First Minister has returned to that important issue. Other matters can perhaps be taken up later. I thank him for the response that the Executive has already made and for the useful meetings that I have held with the Minister for Environment and Rural Development and his officials.

Has the Executive made contact with the European Commission? The Commission is sympathetic and ready to afford flexibility in the common agricultural policy and structural funds, as was clearly defined in a letter from President Prodi to my colleague Ian Hudghton MEP in October this year. Will the Executive submit specific recommendations to forthcoming discussions on the European Union solidarity fund, the principle of which was agreed in September?

The First Minister: Margaret Ewing raises important matters. I will be happy to ask Ross Finnie and Allan Wilson to look at them as part of the package of measures that, I am sure, will have to be considered in relation to the situation in Moray. None of us can underestimate the devastation that was caused, not only to people whose homes and lives have been ruined in the past few days, but to businesses in the area and to the future economy of the area. I would be happy to consider those specific ideas and to ensure that Margaret Ewing receives a written response.

Maureen Macmillan (Highlands and Islands) (Lab): Nobody should be under any illusion about the trauma that the disaster caused in Moray and the worries about what may happen in the future. Will the First Minister clear up a point that was raised at the Transport and the Environment Committee, about the Bellwin formula: what exactly is it? Is it a permission to borrow more money or is it a grant to the council?

The First Minister: Perhaps members have mixed two different schemes. The flood prevention support measures that the Executive provides are a borrowing permission for councils to implement flood prevention measures locally. The Executive dramatically increased that budget not only in our previous budget two years ago, but in our budget this year for the next three years. That will help us assist with the 73 schemes throughout Scotland that are currently awaiting applications.

Money that is allocated under the Bellwin scheme is compensation to local authorities to

cover the costs of dealing with a flood, or another form of disaster, after it has taken place. That money is cashed to local authorities to spend on that compensation.

The Presiding Officer: That concludes First Minister's question time.

Christine Grahame: On a point of order, Presiding Officer. I seek your guidance on the comments that the First Minister made with regard to the SNP's press statement.

The Presiding Officer: No, I am sorry—

Christine Grahame: I seek your guidance, Presiding Officer. The press statement—

The Presiding Officer: That is not a point of order.

Christine Grahame: It is an important point relating to—

The Presiding Officer: Order. I have already ruled on this. Interruptions should not be— *[Interruption.]* Order. Sedentary interruptions should not be made, and they should certainly not be responded to, by any minister. That is the end of the matter. *[Interruption.]* The content of answers is not a matter for me.

Christine Grahame: You do not know what I was going to say, Presiding Officer.

The Presiding Officer: I am sorry, but content is not a matter for me. Please resume your seat. We will move to the debate on the foot-and-mouth disease report.

Foot-and-mouth Disease Inquiries

The Deputy Presiding Officer (Mr Murray Tosh): The next item of business is a debate on motion S1M-3602, in the name of Ross Finnie, on the Scottish Executive's response to the foot-and-mouth disease inquiries, and on two amendments. I invite those members who are leaving the chamber to do so as quickly and quietly as they can, so that we can protect as much time as possible for this short debate.

15:32

The Minister for Environment and Rural Development (Ross Finnie): Few, if any, members of the Parliament do not have at least some experience of the devastation that foot-and-mouth disease brought to Scotland in 2001. Constituents of almost every member either had their farms, businesses and livelihoods affected by the disease itself or were caught by its wider impact. It had far-reaching consequences for our valuable livestock industry, in both domestic and export markets, and had a significant impact on the wider rural economy, including the tourism industry.

Difficult decisions had to be made and carried out against that often distressing background. As the minister responsible for tackling the outbreak in Scotland, I was, and remain, very appreciative of the support of Parliament and of all the stakeholder businesses during those difficult times.

It is fair to say that we have made very considerable strides towards recovery, although I recognise that, in many parts of Scotland and among many businesses, there is still a long way to go. The agriculture industry is a resilient industry, which was determined not to be beaten, either by the disease itself or by its consequences.

Foot-and-mouth was an experience that Scotland cannot afford to go through again. It is therefore vital that we extract every drop of knowledge from the trials we have endured. Against that background, it was clear that we needed independent and timeous analyses of the outbreak and of the lessons to be learned. To meet those needs, two inquiries were commissioned last year on a Great Britain basis: Dr Iain Anderson's lessons to be learned inquiry and the Royal Society's scientific study of infectious diseases in livestock. In addition, the Royal Society of Edinburgh undertook its own inquiry, focusing on the situation in Scotland.

As the Parliament will be aware, the reports of all three inquiries were published in July. I record

my appreciation of the exceptional efforts that were made by Dr Iain Anderson, Sir Brian Follett, Professor Ian Cunningham and their respective teams in delivering the reports within such a tight time scale. Each report makes an invaluable contribution to our understanding of and knowledge about the handling of the 2001 outbreak, and informs how we might improve on that in the future. Given the importance of the inquiries, the Scottish Executive has made it a priority to respond to them all as quickly as it can, and we have undertaken to respond by December.

Before turning to the specifics of the Executive's response, I will take a moment to reflect on what the inquiries had to say about Scotland. All those involved—our farming industry, the local authorities and other support agencies, the Army, the state veterinary service and the Scottish Executive—can take some encouragement from Dr Iain Anderson's observation that

"This was, in our view, an example of the disease outbreak being handled as effectively as possible given the circumstances."

Just as Scotland's joined-up approach proved more successful in eradicating the disease once it had struck, so it must underpin the way in which we build robust defences against disease in the future.

The Executive's response to the inquiries is deliberately structured to follow the framework that is outlined by the report "Foot and Mouth Disease 2001: Lessons to be Learned Inquiry". The response deals with how we can reduce the risk of importing infectious diseases, how we can reduce the vulnerability of livestock and how we can minimise the impact of any future outbreak.

I am on record as emphasising the importance of keeping infected meat and meat products out of this country. I assure members that I share the many concerns on that score, as does the whole of the Scottish livestock industry. The checking of imported meat and meat products has already been stepped up. A fundamental review of the whole system of import controls has just been completed, which will streamline the tackling of the problems that arise from the sheer volume of goods and people that move into the country. Given the fact that the main entry ports are not in Scotland, it is important that we protect our interests via co-ordinated UK activity. A rigorous veterinary risk assessment has been undertaken to help enforcement agencies to target resources on the greatest threats.

I will deal with how we can reduce our livestock industry's vulnerability to disease. I have been greatly heartened by the level of support that I have received from Scotland's meat and livestock industry for our efforts to reduce the vulnerability of the industry to attack from serious diseases that

penetrate the UK's outer defences. I draw the Parliament's attention to some of those efforts in particular: the complete ban on pig swill that was introduced in May 2001; the ban on rapid market-to-market movements, which contributed to the seriousness of the 2001 outbreak; and the 20-day movement regime, which—in the light of the inquiry recommendations—is currently undergoing an extensive veterinary risk and cost-benefit assessment to ensure that the system that is in place is proportionate to the risks involved.

Richard Lochhead (North-East Scotland) (SNP): The minister will be aware that the 20-day rule is causing a great deal of inconvenience for many of Scotland's stratified farms, particularly those in areas of the country that never suffered a case of foot-and-mouth disease. Will he indicate when the earliest possible opportunity will arise for him to announce that the regulation will not be made permanent?

Ross Finnie: We must be careful. Richard Lochhead would be wise not to suggest that we simply dismiss a key recommendation of the Anderson inquiry report. That report makes clear that we should have a risk and cost-benefit assessment. I make it clear to the chamber that I hope to have the early parts of that assessment report before the end of the year. At the earliest opportunity, I will ensure that the results of the assessment are made available to the Parliament. We will then be able to move forward from there.

I must say to Richard Lochhead that, although I receive many representations from those who are in the farming part of the livestock industry, I also receive—like Richard Lochhead, I am sure—many representations from those who are in other parts of the livestock industry. I have also received representations from those in the tourism industry, which is extremely concerned to ensure that we have the proper procedures in place to restrict the ability of a disease to spread as quickly as foot-and-mouth did last year.

I know that some are vehemently opposed to the 20-day rule, but I can only repeat that I will study the risk and cost-benefit assessment. No binding decisions on the future of the present standstill arrangements will be made without full consultation with all Scottish stakeholders.

I also attach great importance to improving the general level of on-farm biosecurity. After extensive consultation with stakeholders and the endorsement of the Rural Development Committee, I launched the biosecurity code of practice at the AgriScot exhibition this morning. The code provides sensible and practical guidance to the industry on how risk can be minimised. It will be complemented by a biosecurity website and by the development of the Scottish vocational qualification biosecurity training modules, which

will help the industry to make changes to its practice that will contribute significantly to reducing the risk of disease spread.

In addressing the question of reducing the vulnerability of our livestock industry, I have so far covered individual initiatives, but the time has come to tackle the subject at a more strategic level. I will be joining the agriculture ministers from the other Administrations in drawing up a comprehensive animal health and welfare strategy for Great Britain. Animal health is a fully devolved policy area in Scotland, but Great Britain is a single epidemiological unit and disease knows no boundaries. Given general agreement on the principles of animal health and welfare, it makes sense to take on that challenging task at GB level.

I propose that within that overall strategic approach there will be scope for variation in implementation to reflect the special circumstances that pertain to Scotland. Delivery will also be considered carefully from a Scottish perspective and our stakeholders will be fully involved in its development and management.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Will the minister give a guarantee that if primary legislation is required as a result of the discussions, the legislation that refers to Scotland will be debated in this chamber and not at Westminster?

Ross Finnie: Yes, indeed. When I am talking about a strategy, that is to be distinguished from any amendments that might have to be made to the Animal Health Act 2002. If we require to revise that act, I am most anxious that it be done through Scottish primary legislation. At the moment, I am talking about bringing together the various elements that require to be put into an overall strategy. My suggestion that that be done on a Great Britain basis is because of my strong view that that is a single epidemiological unit.

Robin Harper (Lothians) (Green): Will the minister take a further intervention?

Ross Finnie: No, I would like to move on.

The state veterinary service in Scotland will contribute significantly to the strategy. It is important that there should be clear lines of accountability to Scottish ministers and the Scottish Parliament. Our experience during the recent outbreak reinforces that.

Accordingly, the post of chief veterinary officer for Scotland has been created to ensure that independent veterinary advice is available to the Executive. The chief veterinary officer for Scotland will have overall responsibility both for veterinary policy and for the SVS's delivery within Scotland. That significant change does not involve the break-up of the single GB state veterinary service;

it reinforces it. I agree with Dr Anderson that the SVS ought to be maintained as a unified national service.

No matter how strong our outer and inner defences are, we cannot guarantee that there will never be another outbreak of a serious animal disease. The Executive has produced a contingency plan that explains how we will work with stakeholders and operational partners in the event of any further outbreak. I hope that that will ensure that we are better prepared than we have ever been.

Vaccination was a highly controversial issue during the outbreak. It was considered as an option at the time, but it carried with it a set of scientific, trade and consumer problems that have been very clearly explained by the Royal Society report in particular.

To resolve those problems and to allow vaccination to become the major tool of first resort, we will promote informed debate among Scottish stakeholders, building on the clear scientific advice that meat from vaccinated animals is safe to eat.

The scientific and technical problems that are associated with vaccination are not insurmountable. As we made clear in our response, however, they will require a degree of determined effort. I have made that point to other organisations.

John Scott (Ayr) (Con) rose—

The Deputy Presiding Officer: The minister is well over his time.

Ross Finnie: I hope that Parliament will recognise the stress that I place on protecting Scotland's valuable livestock industry for the future. That is the driving force behind the Executive's response. We believe that we can build on the painful experiences of the past, and be informed by the impressive and valuable work of the three inquiries. I commend the Executive's response to those inquiries.

I move,

That the Parliament notes the conclusions and recommendations of the Lessons to be Learned, Royal Society and Royal Society of Edinburgh inquiries into foot-and-mouth disease and welcomes the Scottish Executive response which builds on their recommendations and aims to develop a framework for reducing the risk of importing infectious diseases, reducing the vulnerability of livestock and minimising the impact of any future outbreak to give better protection to Scotland's valuable livestock industry.

15:44

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Last year's foot-and-mouth crisis had a devastating impact on those involved throughout the rural economy in Scotland. We saw 735,000 animals slaughtered. The experience was

appalling and it caused great pain, hardship and misery to many people in Scotland.

I was pleased and a bit proud that, in response to that crisis at the time, members of the Scottish Parliament acted together in a broad spirit of consensus. Today, however, it is right that we consider the lessons to be learned from the inquiries.

I would like to tackle four of the more important issues, the first of which is import controls. The SNP believes that import controls have to be tackled properly, with the view that animal diseases do not respect boundaries. I am afraid that the evidence to date suggests that insufficient is being done to address the problem. Indeed, the president of the National Farmers Union of Scotland, Jim Walker, put matters rather more dramatically in *The Scottish Farmer* on 22 June, when he asked what Margaret Beckett had done in practice to ensure that infected meat is not imported into the UK. He said that Margaret Beckett

“has introduced the use of one sniffer dog across the whole of Great Britain to try and stamp out illegal imports of meat and meat products”.

In addition, the deputy director of the Pirbright laboratory, Mr David Paton, gave a warning at the NFUS annual general meeting in St Andrews this year

“that a new wave of diseases could strike the UK at any time because of inadequate import controls”.

I welcome some of the measures that are contained in the Executive's response, but we must acknowledge that the response to date has been one of words not followed up by deeds. It has not been adequate. We should heed the warnings of Mr Walker and Mr Paton. It is essential, not only for FMD but for a host of other animal diseases, that import controls are tightened up. Other countries—New Zealand and Australia—have far more rigorous regimes. Why do we not take a leaf out of their book? If there is some sacrifice or inconvenience to people, for example in the increased use of sniffer dogs, so be it. I think that society as a whole would be prepared to thole that, rather than have the possibility of a repeat of what we saw last year.

Secondly, in respect of vaccination, if we knew on 20 February last year what we know now, what would we have said? We were right to act on a united basis on the advice of the veterinary experts at the time. I took some trouble to seek out my own expert advice from various sources. We supported the Executive role, but were the situation to happen again, could we conceivably go down the same route of a slaughter eradication policy as, in effect, the single club? I think that we could not.

It is far too early to rule out routine vaccination. I note that in paragraphs 86 and 87 on page 27 of the response, it is not clear at all to what extent emergency vaccination would be used. The document does not say in what circumstances it would be used and does not respond directly to the RSE recommendation. Far more clarity is required. I do not think that the public would put up with the mass slaughter of animals again, and I do not think that it is sufficient simply to say that animals would be buried instead of burned.

Of course, there are practical problems; it is not simple. The report rightly states in the section on vaccination that a number of issues are to be resolved. In order that they are resolved, there is plainly the need for substantial extra research, which is my third point. Indeed, according to the specific recommendation that the Royal Society made on funding, the Government should

“increase investment in animal disease research and development by the order of £250 million over the next 10 years.”

Recently, I obtained an answer to a parliamentary question from the Minister for Environment and Rural Development, which was a first in my experience. Instead of the somewhat non-responsive answers that we are accustomed to receiving, when I asked the Scottish Executive

“what information it has received on why no submission was made to the European Commission from the UK to receive a share of its financial package to fight ... animal diseases”

the minister replied:

“EU legislation requires member states to submit applications for such funding by 1 June. The Executive is aware that due to an administrative oversight a submission from the UK was not submitted by that deadline. Administrative procedures have been amended to avoid a repetition in the future”.—[*Official Report, Written Answers*, 11 November 2002; p 2182.]

I have never known a minister to reply to a parliamentary question with the admission, “It's a fair cop, gov. You've got me bang to rights.”

I take no particular pleasure in saying that, because we urgently require funding. That is what the report recommends, but the UK has not even asked the EU for a share of the £94 million budget line for that research. That was available but was not applied for, which was a serious error. I hope that the minister will say whether the UK will obtain any of that money—not perhaps as much as France, which obtained £20 million—and how much will be used for the research that is required to develop effective vaccination techniques.

The fourth point that I will mention is access to the countryside. The Executive's rejection of the RSE's recommendation that closure should persist only for three weeks is premature. In retrospect, it can be seen that in the areas of Scotland that the

outbreak did not affect, there was massive loss and disadvantage to people in tourism and particularly to small businesses and one-man businesses such as mountain guides, path repairers, vermin controllers, fencing contractors and hauliers. Suddenly, they all lost all their income. The former First Minister Henry McLeish stated that consequential compensation would be provided and we waited a long time for that, but it never arose.

I hope that the minister will pick up those four points in his winding-up speech and that we will not only learn lessons but act on and implement them.

I move amendment S1M-3602.2, to leave out from "and welcomes" to end and insert:

"; welcomes the fact that the Scottish Parliament was able to deal with the foot-and-mouth crisis more efficiently than it was tackled in England; endorses many of the proposals contained within the Scottish Executive response to the inquiries but considers that insufficient progress has been made to tighten import controls; believes that emergency vaccination should be deployed in any future outbreak, that there should be a total transfer to Scotland of all necessary power to handle any such outbreak and that the continued application of the 20-day rule is creating significant difficulties for Scottish farmers and crofters, and considers that the restrictions on access to the countryside were retained for far too long and had a severe impact upon the rural economy of many parts of Scotland."

15:51

Alex Fergusson (South of Scotland) (Con): I must draw attention to the fact that the debate should have taken place two weeks ago. That it did not owes more to Margaret Beckett's desire to be first to the dispatch box on the issue than Ross Finnie's apparent inability to have the Executive's response published on time. However, even that does not explain why the debate was truncated to 90 minutes when three hours had originally been scheduled for it. It is difficult to believe that any reason is behind that decision other than the Executive's desire to put the lid on the issue as quickly as possible and to move forward. I have no difficulty with the desire to move forward. It is clear that everyone who was involved in last year's foot-and-mouth outbreak desires to do that.

Ross Finnie: Will the member accept as a small matter of record that I as a minister have had no influence on the debate's timing? The parliamentary authorities disposed of that matter.

Alex Fergusson: I accept that, but I did not allege that the minister had anything to do with the debate's timing. I regretted the fact that the debate was truncated.

Everyone who was involved in the outbreak desires to move forward, but it is important that we do so in the knowledge that lessons have been learned and that a firm, robust strategy is in place

to cope with a future outbreak. That strategy should be regularly revisited and updated and should not suffer the same fate as its 1968 predecessor, the Northumberland report.

The Executive's response to the three inquiries is important, as it gives us a pointer as to how determined the Executive is that we improve our performance the next time round. On that basis, I welcome the debate—delayed and shortened though it is.

Paragraphs 42 to 48 of the Executive's response concentrate on the state veterinary service. We welcome the devolution of responsibility through the creation of a chief veterinary officer for Scotland, who I hope will be able to act in a future outbreak without constant compulsory reference to the Department for Environment, Food and Rural Affairs. However, I am somewhat unclear about the Executive's intentions on the recommendation of all three inquiries that a sort of Territorial Army of vets be established.

The response waxes lyrical about local veterinary inspectors and temporary veterinary inspectors, but they already exist and were involved, as the response says. I recently spoke to a retired but active vet in Wigtownshire who offered his services last year. As he had been a practising vet during the 1967 outbreak, it would be expected that he would be highly valued. Instead, his offer and experience were dismissed as unwanted. A TA of vets would surely be invaluable in identifying such a resource. I hope that that will be given more substance in the minister's future considerations.

We also welcome the decision to locate a serological laboratory in Dumfries, but suggest that an equal need might exist for a similar facility in the north of Scotland. The slowness of sample analysis must have played a large part in the decision to adopt slaughter on suspicion, which led to increasing public unease with the cull policy. Any moves to cut analysis time are therefore welcome, but we urge the minister to consider two facilities.

The vexed compensation question is—rightly—addressed. It is quite right that compensation be paid to those who lose their livestock as part of a disease eradication programme. What is wrong is when our national Government uses that compensation as part of a farmer-bashing exercise only months after it vowed to stand four-square behind the agriculture industry. It is equally wrong that during the early part of last year's outbreak, compensation seemed to be based on a sliding scale that was almost dependent on the degree of resistance to the cull.

Much better use must be made of the practical expertise of members of the Institute of

Auctioneers and Appraisers in Scotland, who seem to have been rewarded for their valiant efforts last year by having to go to court to try to obtain payment for their services at the agreed rate. The basis of the payment is being disputed by DEFRA even though it was agreed by the Scottish Executive environment and rural affairs department. I hope that the minister will do everything in his power to right that wrong.

Much weight is given throughout the response to the biosecurity code of practice, to which all farmers are now encouraged to adhere and which is rightly aimed at all users of farmland. Its aims might be worthy, but I was somewhat alarmed to discover recently at the Rural Development Committee that no exercise was ever carried out to show how such a code would have impacted on the spread of foot-and-mouth last year.

One can only speculate therefore that the benefits of the code are essentially aspirational and that, if it is to be fully effective, it will depend on 100 per cent take-up. Even with the best will in the world, I am not convinced that that is likely to happen. I suspect that the code may end up being treated with as much affection as the 20-day rule, which is another measure that is highlighted in the response.

Although the minister has introduced greater flexibility over the rule than exists in England, in some cases over the past few months, the rule made it all but impossible to carry out normal farming practices. That led to a temptation to flout and ignore the regulation, but that is the inevitable consequence of placing too great a burden on the industry. If the regulation is flouted and ignored, it becomes worthless. I hope that the minister will find a way to revoke it in the new year once the findings of the various studies have been published.

A senior member of one of the boards of inquiry told me only yesterday that he felt that the Executive was being devious on the policy behind vaccination. The Executive must not be devious on the issue. Its intentions must be clearly stated and defined so that everyone knows what will happen in the event of a future outbreak—given the rather pathetic efforts thus far of the UK Government to tighten up on illegal meat imports, such an outbreak is all the more likely.

The Executive response should be such that it points towards another outbreak being snuffed out so quickly that vaccination is unnecessary. That is the goal towards which we must aim. I accept that the Executive's response is aimed in that direction, but it does not have enough impetus for the ball to hit the back of the net.

I move amendment 3602.1, to leave out from "and welcomes" to end and insert:

"regrets the late publication of the Scottish Executive's response to the inquiries and the curtailment of the debate on the issue; considers the response to be vague and urges the Executive to clarify its position on key issues such as the future use of vaccinations; calls on the Executive to produce clear evidence that it is working urgently with Her Majesty's Government to reduce the risk of importing infectious diseases, and seeks reassurance that the outcome of the inquiries will form the basis for continuing vigilance and regular updated contingency arrangements in the event of a future outbreak."

The Deputy Presiding Officer: I would be grateful if members did not start new passages of their speeches after their time has expired.

15:57

Rhoda Grant (Highlands and Islands) (Lab): The fact that foot-and-mouth disease had a devastating effect on Scotland is not in doubt. It had a disastrous effect on farming communities, many of whom were already struggling from falling prices and income from the effects of BSE. The effect of foot-and-mouth disease on the farming industry cannot be measured only in financial terms; the emotional and psychological strain on farmers and their families certainly cannot be measured in that way.

The effect of the outbreak also went much wider than the farming industry. Tourism was hit badly and the impact of that underlined tourism's major contribution to the Scottish economy. Potential visitors to Scotland watched news reports of mass pyres burning around the country. Those reports gave the impression that that situation was commonplace throughout Scotland and visitors were also told that they would be unable to access the countryside, which discouraged those who wanted to come on walking holidays.

Much work was done and investment put in place to encourage foreign tourists back to the UK, which appears to have had an impact in some areas. The effects of foot-and-mouth disease on tourism shows how it touched the whole of Scotland, not only the rural areas.

Today, we are debating the Executive's response to the foot-and-mouth inquiries. I remember that when the inquiries were first announced a number of people discounted them and said that they were an attempt by the Government to cover up its mistakes. Anyone who has read the reports will know that that is not the case. The reports provide a coherent and well thought-through analysis of the way in which the Government handled the crisis. I want to commend in particular Dr Ian Anderson's report, because it presents the information very readably and in an easily accessible manner. Anyone who picks up that report will be able to make sense of what it describes and what it recommends.

The reports focus on a national strategy for disease control to keep disease out and, if that

fails, to reduce stock vulnerability and to minimise the impact of any further outbreak. First, reducing the chance of disease entering the country is a UK-wide issue and work has already been carried out on that. For example, UK pressure on the European Commission has resulted in the banning of personal allowances of meat from outwith the European Union from next year on.

Secondly, we must examine the matter of stock vulnerability. As the minister said, we have already banned pig swill; however, we must also underline the importance of animal health and welfare. The outbreak would not have had such an impact if it had been identified and dealt with immediately. Although most farmers and crofters take animal welfare extremely seriously, we need to take steps to ensure that those who do not are removed from the industry.

We must consider empowering SEERAD vets to enable them to remove and dispose of animals that are being neglected or ill-treated before those cases come to court. As members know, that process can take a long time, so that matter must be dealt with first. Such powers must be given to improve animal welfare throughout Scotland.

Thirdly, we must be ready for future outbreaks. Although there are tighter controls on imports, we must not be complacent in that area. We need robust tracing systems, and measures such as the use of passports and tagging are helping to put those in place. Information technology will make it much easier to interrogate systems and to trace movements in case of an outbreak. Furthermore, in the event of an outbreak, we must have the power to impose immediate movement restrictions and to seal off affected areas and areas that will potentially be affected.

We must also issue clear guidelines to hauliers on the action that they should take in relation to animals in transit during any future outbreak. For example, during the previous outbreak, we heard about hauliers who stopped at Longtown as they were returning animals to their original owners. There was a huge risk of spreading the disease to otherwise unaffected areas such as the Highlands, where a few cases were still reported.

We must explore the use of vaccination to manage and control outbreaks and we must find out whether such an approach would help to isolate the disease. Although I do not want use of vaccines to be widespread, we need to know whether they would give us valuable breathing space in a crisis.

The lessons to be learned report highlights the fact that in Scotland there was better working between the Government and agencies and that the disease was tackled more effectively. In the light of that, we need to work with all stakeholders.

I hope that, in any future consultation about a change in legislation, the Executive will throw the net as wide as possible to ensure that everyone is involved. If more people are involved in drawing up solutions, the solutions will attract more popular support.

Finally, our strategy must integrate with strategies in the rest of the UK. As we discovered during the previous outbreak, the disease does not recognise administrative borders.

I know that I have run out of time, but I could say an awful lot more on the subject. I am glad that the Executive is committed to improving systems and to introducing plans to ensure that a future outbreak does not have the same devastating effects as the last one had.

The Deputy Presiding Officer: I did give you a little extra time because I was distracted by a note; that is how members should do it.

We now move into the open part of the debate. I ask members to stick to their four-minute time allocation if we are to get everyone in.

16:03

Richard Lochhead (North-East Scotland) (SNP): I welcome the debate and the fact that we have finally reached this point. It indicates that the wheels of government move quite slowly, given that the last case of foot-and-mouth disease in Scotland was reported at the end of May 2001. We have had to wait 18 months to have this debate on the way forward and to hear some of the ideas that are in the pipeline to ensure that such a terrible outbreak never happens again.

It is difficult to imagine what people who were affected by the outbreak went through, particularly those in the Borders and in Dumfries and Galloway. We should remember that the disease hit not only agriculture, but tourism. Indeed, the report notes that, although the agricultural sector lost £60 million, the tourism sector lost £200 million.

We must learn lessons this time. For example, all the reports have recommended that burning of animals should be the last option. Of course, the Northumberland report back in 1967 or 1968 said the same thing. Perhaps we should learn that lesson this time, because we obviously did not do so then.

We must acknowledge that Scotland dealt with the crisis better than it was dealt with south of the border. One reason was the existence of Scottish ministers, the Scottish Executive and our Parliament and Scottish institutions. Their response shows that we can respond better to Scottish circumstances. However, we should look for more powers and a greater Scottish response

in the future, because we would have been able to do even more had we had the authority.

One difficulty that came out of the situation was the fact that because the minister had limited powers, he had to use them to be seen to be doing something. Most of what the minister did was worth while and was supported by all parties, but there is a feeling that the minister was over-zealous—for example in the way that the 20-day rule is still being applied—because he lacked the powers to tackle the root causes of the outbreak.

My constituents feel that they are still suffering from the foot-and-mouth outbreak despite the fact that there was never a case in north-east Scotland. The 20-day rule is causing great inconvenience to the stratified system of farming in north-east Scotland, where the right resource has to be on the right grounds at the right time, particularly in autumn and spring. There have to be many movements of livestock in a short space of time, which cannot happen with the 20-day rule. That is why there is so much concern that the rule's imposition might become permanent.

There is a feeling that in too many areas the minister continues to take his lead from DEFRA. We must have a Scottish response to Scottish circumstances. There is no doubt that use of the 20-day rule has been influenced by what DEFRA is doing south of the border, and there is a feeling in the industry that the starting point for the rules is what DEFRA does. The Scottish Executive seems to be saying, "There has been more relaxation in movements, but we're not going any further because DEFRA is refusing to budge south of the border."

Ross Finnie: Can the member produce one single shred of evidence for that last statement? The 20-day rule that operates in Scotland is entirely different to what is used south of the border. Any time that I go down south, I am berated because people there want to operate the rules as we have put them into effect in Scotland. There is no evidence that DEFRA is leading in the matter.

Richard Lochhead: I shall give the minister an example of what I am talking about. The industry has been calling during the past 18 months for risk assessments and a cost benefit analysis. That was not forthcoming, but a decision was eventually taken because DEFRA decided that it was time to put such a scheme into place, and a few months ago we got it off the ground. However, that scheme should have been in place ages ago so that we could have put the rule to one side.

Imports are the root of the problem, and our farmers feel that they are bearing the brunt because the minister has limited influence. The root cause of the outbreak was illegal imports; that

is where we must tackle the problem. It is one thing to try to prevent the spread of the disease if it happens again in Scotland—we supported most of the measures that were taken—but the key is surely to prevent it from happening in the first place. That is what the farmers want.

In July I went to several south-east Asian countries. I came back to Aberdeen via Heathrow, and was not checked once for illegal meat imports. There was one brief announcement at Heathrow airport, which is not good enough—I could have brought anything into the country. There was no check, which is still the situation today as far as I am aware. We need more urgency on controlling imports and the minister must have more authority.

16:08

Euan Robson (Roxburgh and Berwickshire) (LD): I am grateful for the chance to add some observations from a constituency perspective on the foot-and-mouth outbreak last year. I reiterate the tribute that I paid in an earlier debate to the courage of my constituents and others in the south of Scotland. It was, in effect, their sacrifices that prevented the spread of disease further north and which meant that others did not have to suffer the horrors that foot-and-mouth disease imposed.

I want to touch on four points from my constituency experience. As the response says, there were during the outbreak problems with communication among farmers, vets and others. I suppose that that is inevitable when events move quickly, as for example when the disease jumped 40 miles from Newcastleton to Jedburgh and then to Duns. Therefore, the recommendations and intended actions in the report's paragraphs 113 and 114 are welcome. Accurate and timely communication with individual farmers is particularly important to ensure that all believe that their individual circumstances are handled in a manner that is consistent with the handling of neighbours and near-neighbours.

I turn now to slaughter policy. I do not recall anyone in my constituency suggesting that animals on an infected premises should not be slaughtered. That action was agreed by nearly everyone. However, during the outbreak, concern was expressed about slaughter in contiguous farms, where there was only a suggested adjacent infected premises, and particularly about slaughter on non-contiguous premises within 3km.

With hindsight, some of the culls in the non-contiguous farms could have been avoided if the results of blood tests, which turned out to be negative, had been produced more quickly. If we are to use the 3km bands in the unfortunate event of another outbreak, it is in the non-contiguous

farms within those 3km bands that vaccination might play a part in producing the fire break that the cull policy was intended to create. The problem was that, with slaughter on the non-contiguous farms, flocks such as the south country Cheviots were severely affected. Somewhere between a quarter and a third of that entire breed was lost and precious bloodlines went. It would have been better if the policy had been handled in a slightly different way, because we could have preserved some of those bloodlines in the south country Cheviot flock.

Vaccination could play a part in protecting the very rare breeds, of which some in my constituency had to be slaughtered. No one is suggesting that an infected animal should be left alive, but there could be vaccination of other rare breed animals within the group, perhaps with a policy of isolating all the animals. That could preserve some of the very rare breeds, especially if they are not to enter the food chain.

I welcome the comprehensive response that the Executive has made. Every effort must be made to prevent the return of that hideous disease to our shores, and I am sure that the efforts that the UK Government will need to make must be enhanced. Every effort must be made to ensure that we do not see the return of foot-and-mouth disease or of other "exotic diseases", as they are described, which can cause such devastation.

16:12

Rhona Brankin (Midlothian) (Lab): I would like to talk specifically about the impact of foot-and-mouth disease on the Scottish tourism industry. As colleagues will be aware, tourism is one of Scotland's most important industries and is estimated at 5 per cent of Scottish gross domestic product. It injects about £4.5 billion into the economy and employs about 193,000 people. Those figures are considerably higher than those for agriculture but, as we all know and as the RSE's report points out, the 2001 foot-and-mouth outbreak demonstrated as clearly as could be demonstrated the interdependence of the industries that constitute the rural economy.

Tourism was directly affected by the closure of the countryside, but it was also affected by the sight of burning carcasses, images of which were relayed world wide. In evidence, the Borders Tourist Board told the Royal Society of Edinburgh that the effect on tourism in that region was about twice the cost of the effect on agriculture. The loss in the Borders was about 14 per cent. In Dumfries and Galloway, the figure was nearer 20 per cent in terms of loss of tourism business. VisitScotland said that the overall loss for Scotland was estimated at £200 million in gross revenue from tourism.

I am sure that members will agree that the tragedy of foot-and-mouth disease highlighted the large numbers of people who walk, climb, cycle, ride horses or just enjoy the countryside in Scotland all year round. I would like to talk specifically about some of the issues that arose for tourism in the countryside when large tracts of land and many paths were shut down—in some cases, in my view, unnecessarily. I am not for one moment downplaying the fears of farmers and land managers outside infected and at-risk areas, but we have to learn lessons about access issues.

Unlike Fergus Ewing, I share the Executive's concern about the Royal Society of Edinburgh's recommendation that the countryside should be immediately closed down for three weeks without a veterinary risk assessment in the event of an outbreak. The impact of that on the rural economy would be unacceptable and I do not think that such a shut down would be necessary. I very much welcome the Executive's more measured suggestion that, outside the infected area, the expectation is that the countryside remain open with closure being permitted only on the basis of a veterinary risk assessment. That assessment should take a presumption in favour of access as its starting point.

During the 2001 outbreak, one of the main problems was trying to get hard evidence about what was happening on the ground. It is absolutely essential that the access forum is fully involved in drawing up contingency plans. There must be bodies that have the stated responsibility of providing information on access in their local areas and on what is going on. The involvement of the access forum at a central level and involvement of local access forums is needed.

During 2001, it proved to be much easier to close down the countryside than to open it up again. I am sure that we all hope that there will never be a next time for foot-and-mouth disease, but if there is, we must ensure that a plan that is measured and—this is important—commensurate with veterinary risk can instantly swing into action to ensure that the tourism industry in Scotland is protected.

16:16

Mr Jamie McGrigor (Highlands and Islands) (Con): In order to understand the full impact of the foot-and-mouth outbreak on people in the Highlands and Islands, one must first take account of the fact that incomes from the primary industries, such as farming, crofting and tourism, were already at a low ebb. Since 1996, prices have fallen disastrously. The light was beginning to glimmer at the end of the tunnel, as was shown by the high prices in the European markets—especially for lamb—in the autumn of 2001. The

outbreak was particularly galling for Highlands and Islands farmers and crofters, much of whose income depends on the sheep annual premium. That premium is paid to farmers in less favoured areas and its level is governed by the average lamb price in Europe.

At one point, Irish farmers were selling lambs for £70, while farmers in the Highlands and Islands were lucky to get £15. It is ironic that the high European price meant that the sheep annual premium payment to farmers here was cut drastically to less than half of the payment in the previous year. That one effect of foot-and-mouth disease slashed the incomes of farmers and crofters and the measures that had to be taken for protection against foot-and-mouth disease greatly increased their costs.

George Lyon (Argyll and Bute) (LD): Will the member take an intervention?

Mr McGrigor: No. I am sorry.

My main memory is of letters and telephone calls from confused farmers, crofters and tourism operators asking what was and was not open and where they could get advice. There was a lack of information from Pentland House and the Ministry of Agriculture, Fisheries and Food's veterinary service at Jeanfield House in Perth, which is responsible for veterinary matters of state importance. It was difficult to contact that service by fax or phone—it appeared to have gone underground. It is vital that if foot-and-mouth disease recurs, a proper strategy is in place so that people know clearly what they should and should not do. The lack of information led to backbiting between tourism and farming interests, which should never have happened. Farmers who did not wish to bring foot-and-mouth disease on to their farms put up signs, but they were attacked by the ministry for doing so. Where was the ministry's advice and reassurance?

I am chairman of the Loch Awe Improvement Association, which manages some 80 miles of bank fishing for trout and coarse fish. Forest Enterprise closed its land, which constitutes between 60 per cent and 70 per cent of the area that we also manage, but no advice was given to our association. The opening of the trout season was on 15 March, when Loch Awe is usually visited by many anglers from the central belt and the south of Scotland. Many of those people might have come from infected areas. We received calls from members of the public, angling associations and the police about what we were doing and whether we were open or closed. We could not get any clear advice from any Government source about what to do.

After a special meeting of our committee, we decided to follow Forest Enterprise's lead and

close the fishery; we refused to sell fishery permits. If the Executive told Forest Enterprise to close its land, why were not private landowners told to do the same?

As a result, our association suffered financially. We reopened three weeks later when Forest Enterprise removed its "Keep Out" signs, but the only way in which we could let the public know about the situation regarding fishing on Loch Awe was through *The Oban Times* and the *Daily Record*, which were both extremely helpful, for which I thank them. There should have been Scottish Government advice, but there was none. Councils such as Argyll and Bute Council and Highland Council put disinfecting mats on road entrances to their areas, but they received no help in doing so.

The reports were published in July, but what is being done properly to control meat imports? We live on an island, which should make things easier. Iceland, Australia and New Zealand manage such controls, but what are we doing?

Fergus Ewing mentioned Margaret Beckett's sniffer dog—I believe that it is still in quarantine. Margaret Beckett's idea of putting an insurance indemnity on to farmers is unfair beyond belief. She is suggesting a form of mutual insurance scheme, which is quite unacceptable to the industry. Scottish farmers have earned a high reputation for security and should not be blamed for Government faults over imports. It is hard enough for farmers to make a living without an extra expense being added.

By far the most important thing to be learned from the outbreak is the need for an immediate response and good leadership. That is what saved the Irish and that is the lesson to be learned from the nightmare of the foot-and-mouth outbreak.

16:20

Christine Grahame (South of Scotland) (SNP): We must not forget the human disaster that foot-and-mouth disease was and still is.

I have three comments from Borders farmers. The first is that farmers who return to farming try to look forward rather than back, but they found it hard to make the decision to return. The first farmer said that if they had not had a son who wished to continue the farming tradition the probability is that they would have said that enough was enough.

The second farmer was in a closedown area, as he was close to the infected area around Moffat. Since then he has had a small amount of help with business rates, but nothing else. His accountant has said that the farmer would have been better off had his farm been infected.

The third farmer felt that, nationally, farmers were being made scapegoats and that the problem lay with poor import controls, which led to infected products getting into the system. That is rightly where much of the debate has been directed.

I refer to the House of Commons report, "Illegal Meat Imports", which was published on 17 July. The summary states:

"The illegal importation of meat into the United Kingdom is the most likely cause of the outbreaks of classical swine fever in 2000 and foot and mouth in 2001."

As Fergus Ewing said, foot-and-mouth disease knows no boundaries.

The report goes on to make some recommendations. Page 13 of the report states:

"The Government has also announced 'other specific measures'".

Of course, I have to mention the sniffer dogs—everybody else has. The first specific measure is:

"Pilot use of detector dogs to be underway by summer 2002."

I will be interested to know how many, minister, and whether they are in quarantine.

Another measure is:

"Examination of the potential benefits of using x-ray equipment to scan containers and personal baggage to detect illegal imports, leading if successful to a trial."

What has happened to that measure? The next one is:

"Provision of 'amnesty bins' or equivalent measure to encourage the surrender of unintended illegal personal imports."

What has happened to that measure? The final one is:

"Research into available technologies which might help detect illegal imports."

What has happened to that?

A further important recommendation, because of the multiplicity of agencies involved in such an outbreak, was the recommendation that

"In the longer term there is a case for greater integration of agencies and management, and we recommend that Government",

that is the Westminster Government,

"bring forward a model of a single agency."

What has happened to that recommendation? We do not want to be in a position, in a year or two, in which no progress has been made after a great deal of serious, heavy-duty research has gone into ensuring, so far as possible, that foot-and-mouth disease does not return to the UK.

Page 5 of the Executive's response of November 2002 states:

"Scrutiny of imported product has been stepped up. Enhanced checks and controls have been put in place and more staff have been recruited to police the controls."

Can we have the numbers, please?

The Executive response states:

"Public awareness campaigns have been stepped up at ports and airports to ensure that all concerned are much more aware of the risks involved."

Richard Lochhead has given us his experience. I would like details.

The response also states:

"The Veterinary Laboratory Agency has been commissioned to conduct a detailed risk assessment, which will help enforcement agencies target resources in an effort to raise seizure levels."

What is the time scale for that assessment?

Finally, the response states:

"A review of the whole system of import controls and the role of the Agencies responsible is underway by the Machinery of Government Secretariat."

When will that report, minister?

16:23

George Lyon (Argyll and Bute) (LD): I make no apology, following some of the remarks made by previous speakers, for discussing how we keep the threat of foot-and-mouth disease out of the United Kingdom. Whether we like it or not, foot-and-mouth disease is endemic in many countries throughout the world and will remain so for the foreseeable future. The threat will not disappear. If members look back, the history is that there are outbreaks every 20 or 30 years in the United Kingdom, when our defences fail to keep the disease out.

Keeping the disease out of the country is one of the fundamental lessons that must be learned from the recent outbreak. Like other members, I see no evidence that those lessons have been learned or that action has been taken to address the problem.

When I visited Ireland in August and went through Dublin airport, it was clear that that country takes the threat seriously. There were signs all over the airport with warnings about bringing meat into the country and there were strictures to ensure that people who possessed meat imports dumped them before going through immigration controls. In contrast, when I arrived back at Glasgow airport, there were no signs and no indications that foot-and-mouth disease is a concern. The contrast between Glasgow and Dublin could not be more stark. That is not good enough.

We cannot ask the farming community to take biosecurity seriously, when it is clear that Her Majesty's Government at Westminster does not. I ask the minister to press his colleagues in the Department for Environment, Food and Rural Affairs to take action urgently and to put in place proper measures at our airports and ports to keep out this devastating disease. Make no mistake; the threat is prevalent.

Few other members have mentioned the important 20-day rule, which is in place at present, but which does not reduce the number of movements of animals. The rule is a holding measure until the Government comes up with a further measure to reduce the number of movements. All the inquiries highlighted that as a key issue.

The foot-and-mouth outbreak revealed, for members who are not involved in the farming industry, the activities of cattle and sheep dealers. It is no coincidence that the first outbreaks of the disease were not on farmers' farms, but on dealers' farms. The reason for that is simple: the dealers' role in the marketing chain in the United Kingdom is to shuttle animals from market to market, from one end of the country to the other, to try to make a quick buck from price fluctuations. The dealers are the grease in the marketing wheel that establishes the market price on a particular day. On grounds of animal welfare, biosecurity and market transparency, that practice is surely no longer acceptable in the 21st century.

I am not against auction marts, which are a good way to sell animals and which I support firmly. However, at present, animals are hauled 100 miles from my farm to the auction mart, where they spend five or six hours waiting to be sold and are then loaded on to a dealer's lorry and hurled a further 100 or 200 miles down the road overnight. In the next few days, the animals will go to another mart to be sold again and will then make another journey to the eventual destination. That is no way to market cattle and sheep in this day and age.

The right way forward is surely a system of virtual auction marts, where transactions take place electronically and animals travel straight from the seller to the buyer, thus cutting out the dealer in the middle. I hope that the minister will consider helping the industry to move to such a system.

16:28

Stewart Stevenson (Banff and Buchan) (SNP): Members from all parts of the Parliament have contributed a great deal of common sense to the debate, which is welcome. I turn to a subject that has not exercised previous speakers, which is emergency or contingency planning. Insurance is

the one thing that one cannot buy when one actually wants it and, by the same token, when a crisis arises, it is not possible to build emergency response teams or plans.

It has been said that in Scotland, the response to the foot-and-mouth crisis was more effective than that in England. It has also been suggested that part of the reason for that is because of the ill fortune at Lockerbie, when the Pan Am aircraft fell on that area. That disaster brought about a heightened sense of preparedness, so that, when foot-and-mouth disease came along, the agencies were more used to working together than they were in other parts of the country.

Richard Simpson and I recently spoke at a conference of emergency planning officers, although I did not hear what he said and I am not sure that he heard what I said because we were there at different times. As part of my preparation for that conference, I discovered that the Scottish Executive provides only some £7.5 million a year to local authorities for emergency planning. That is a modest amount. I do not know whether that is the right amount or the wrong amount. However, listening to emergency planning officers, I formed the strong opinion that there is scope for further development of emergency planning and that more money might be made available to local authorities for that. I would be interested to hear the minister's thoughts on that.

It is important that the Executive ensures that an emergency plan exists for each area, covering a wide range of emergencies that may arise, of which foot-and-mouth disease is an example. However, it is equally important that the people who have to respond to emergencies rehearse regularly. There are two levels at which rehearsals can take place. There can be paper exercises, whereby people get together and talk through what their response would be to a problem that is described to them. Those exercises should be undertaken fairly frequently. Less frequent—but more intensive—should be exercises that involve practical effort on the ground. I would be interested to hear what plans the minister has to ensure that there are appropriate, exercised plans throughout Scotland.

If we are to have the capability—should the worst happen in the future—to fight foot-and-mouth disease effectively wherever it occurs, recognising that geography controls the propagation of the disease in these islands, not politics or boundaries, I would like to know what cross-border collaboration there will be, which might help us on another occasion. That is something to which the minister might equally care to turn his mind.

16:32

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I apologise for missing the first part of the debate. That was unavoidable, I am afraid.

The UK Government initially failed to comprehend the sheer enormity of what it faced in the foot-and-mouth outbreak. Scottish Executive ministers handled the outbreak better, as all the inquiries have shown. Unlike Stewart Stevenson, I do not think that that was due to advance planning in the Lockerbie area. The Scottish Executive ministers genuinely deserve some credit.

The Executive response to the inquiries has identified the absolute priority of keeping out infectious diseases through tighter import restrictions. I cannot agree more with my colleague George Lyon, that not enough is being done by the UK Government in that regard.

The Scottish Executive is also considering reducing livestock vulnerability through changes in industry practice to minimise the impact of any future outbreak, potentially through the greater use of vaccination. We have heard some moans from the Tories and the SNP about it, but farmers recognise that the Scottish Executive is doing a better job for them than DEFRA is doing south of the border.

The foot-and-mouth outbreak was a disaster. It is estimated that it cost the Scottish farming sector £60 million. However, it cost the tourism sector around £200 million. While the outbreak was confined to Dumfries and Galloway and a small part of the Borders, it indirectly affected the whole of Scotland's rural economy.

I want to focus on the final issue addressed in the Executive's official response document—that of access. The RSE recommended that:

"In the event of an outbreak, unless its origins and spread are immediately apparent, the countryside should be closed for a period of three weeks at the same time as an animal movement ban is announced".

I am very pleased that the Scottish Executive says that it is unable to accept that recommendation, because I feel that it goes too far. Footpath closures for as long as three weeks would have a significant impact on the wider rural economy, which cannot be justified in terms of the risks involved. The suggestion that the countryside should be closed without regard to the specific veterinary assessment of risk would create unnecessary concern and loss for rural businesses.

In my constituency of West Aberdeenshire and Kincardine, the farming industry was severely affected, but the tourism industry was even more badly affected. After the outbreak, it was extremely

difficult to get the signs that had closed down the countryside removed, so that the countryside could be opened up again. That is one of the major lessons that I hope that we have learned from the exercise.

The Deputy Presiding Officer (Mr George Reid): We move now into wind-up speeches. We have about three or four minutes in hand. John Home Robertson will wind up for the Labour party.

16:35

Mr John Home Robertson (East Lothian) (Lab): I start by declaring an interest. As a hobby, I have a small fold of five Highland cattle and I am an unremunerated partner in a family farming business. The kids of St Ninian's Primary School would be welcome to join me any time they like in the Berwickshire glaur, slaisterin around feeding those coos.

To be serious, I welcome the debate and the independent inquiries that have been held into the awful experience of the 2001 foot-and-mouth outbreak. Above all, I welcome the fact that the Scottish Executive and the United Kingdom Government are accepting and implementing the recommendations from those inquiries. It is obvious that the foot-and-mouth outbreak was an unmitigated disaster, particularly in the epidemic area of Dumfries and Galloway.

I see that my colleague Elaine Murray, who represents the area of Dumfries, has been with us throughout the debate. It is unfortunate that because of her ministerial duties she is prevented from taking part in the debate, but it is well known how concerned she was for the plight of her constituents during the outbreak.

The impact went far wider than Dumfries and Galloway, however. Vast tracts of the countryside were shut down for tourism, the farming industry was under siege and people all over the country were horrified by the slaughter and incineration of countless animals, in my constituency and elsewhere. Therefore, we should also be grateful for the stalwart work of the veterinary profession, the armed forces and the thousands of dedicated public servants working for central and local Government. We should also applaud the long-suffering people of urban and rural Scotland, who were all affected by the outbreak in some way, and just about everybody in the farming community, because the farming community was hard hit.

I said just about everybody in the farming community, but let me enter one little caveat on that. I hope that the minister will bear this point in mind, but I am sure that the Parliament would support tough sanctions against anybody who seeks to profit from compensation schemes by

dishonest means. We all know stories about that, some of which might be true. However, that is one of the lessons that we must learn.

Alex Fergusson is normally a reasonable chap. He is so reasonable that he has left the chamber just now, but I know that he is with us in spirit. We understand that he feels it necessary to indulge in a bit of synthetic outrage five months before an election. However, he knows perfectly well that full, objective, independent inquiries have taken place, that the Scottish Executive is implementing virtually every recommendation from those inquiries and that the minister is reporting on the outcome during this debate. That is as it should be.

Our friends in the Scottish nationalist party seem to blame nearly every problem on Westminster and this is no exception. We can all agree that we need more effective controls on meat imports from areas at risk of serious animal diseases. That is what we seek to achieve. However, the fact is that import controls must be implemented, first and then at a European Union level for, obviously, the island of Great Britain. The minister made that point clearly. Scotland is not an island. If we are to have effective controls over import issues, it must be done on a UK basis.

Leaving aside all the usual political knockabout, I submit that the lessons to be learned report, the Royal Society report and the Royal Society of Edinburgh report have addressed matters seriously and fully. The reports make specific recommendations: to minimise the risk of importing infections in the future; to set better contingency plans so that we can deal with any future outbreak; and to encourage better livestock industry practices, specifically the implementation of Scottish measures, including the appointment of a chief veterinary officer for Scotland.

The Scottish Executive has accepted virtually all those findings and recommendations and is actively engaged with the UK Government on the wider issues. The farming community, the people of rural Scotland and members of this Parliament would expect nothing less. The minister can expect the full support of the Labour party in implementing the policies that he has outlined.

16:40

David Mundell (South of Scotland) (Con): I welcome the opportunity to debate the aftermath of the foot-and-mouth outbreak and the reports of the various inquiries, despite the fact that we have had less time for the debate than I would have wanted.

Nobody should doubt that the scars of the foot-and-mouth outbreak are still raw in Dumfries and Galloway and the Borders. I know many people

who still cannot bring themselves to discuss their experiences of the outbreak. Let us be in no doubt that the impacts of the events of last year will not simply go away. The farming and rural communities of the south-west of Scotland will live with what happened long into the future.

I still believe that it would have been preferable to have held a full public inquiry, which would have allowed a public examination of the many issues and required ministers to give evidence on the public record. However, I commend the Royal Society and Dr Anderson for their work. As a witness at the Anderson inquiry, I am confident that there was a full examination of the issues, although, regrettably, it was done behind closed doors. Dr Anderson admits that—as Euan Robson, a deputy minister in the Scottish Executive, acknowledged today—he was unable to get to the bottom of why decisions were made to change radically policy on the cattle cull, the contiguous cull and slaughter on suspicion. If his investigation of that matter had been on the public record, we would all be a lot wiser about how the outbreak occurred.

The overwhelming concern of the members who have spoken today is to ensure that lessons have been learned from the outbreak and that the reports of the inquiries are not consigned to dusty shelves, which is apparently what happened to the Northumberland report. The reports should form the basis of on-going vigilance and set the framework under which regularly updated contingency arrangements are made and put to the test. Members of the Parliament and people in our farming communities need constant reassurance that action is on-going and that the matter will not simply be forgotten once it is out of the public eye.

It is vital that the minister does all that he can, working with colleagues, to ensure that the chasm that some people have sought to create between agriculture, tourism and other rural activities is not allowed to develop further. More than anything else, the foot-and-mouth outbreak highlighted that everything in rural communities is linked. Any response to a disease such as foot-and-mouth must include all rural interests working together, not set apart.

I have always acknowledged the minister's role and the fact that the outbreak was handled better in Scotland than it was elsewhere. However, members must not forget the flaws in the handling of the process, which are reflected in the pertinent point that Dumfries and Galloway Council made in its submission to the Royal Society of Edinburgh:

"Information flow was poor and guidance and advice received from different places often conflicted. Throughout the response advice from Government departments was changed, amended and frequently contradicted".

We must avoid those flaws in the future.

Several important issues have been raised and, had more time been allocated to the debate, members could have had a more detailed discussion on topics such as vaccination.

Members must also be clear on how best to manage a Scottish response, while taking account of the UK position. The lack of coherence between the responses in Cumbria and Dumfries and Galloway was regrettable, given that they impacted on each other.

There are many compensation issues and I hope that the minister will give a commitment to push DEFRA on slaughter premiums. Many farmers who were compensated in the early days did not receive the slaughter premium and DEFRA appears to have put up the shutters on it.

My major concern remains that, despite the minister's actions, there is no guarantee that, in the event of a future outbreak, we would not see political interference in the management of the disease and the oscillating policy changes that characterised last year's outbreak. Even Dr Anderson did not get to the bottom of why those policy changes took place. If the approach that the UK Government adopted last year is adopted in a future outbreak, I cannot believe that the measures that flow from the report, regardless of what they are, will have the desired effect.

Our thoughts should always be with those who were caught up in the dreadful outbreak. If we really understand the pain, suffering and living hell that those individuals and communities endured last year, it will be incumbent on us all to redouble our efforts to ensure that such an outbreak is not repeated and that, in the regrettable circumstances of another outbreak, we are in a much better position to handle it.

16:45

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): This morning, when I was preparing for the debate and could not find my copy of the Royal Society of Edinburgh's report, I tried to peruse the society's fairly impenetrable website. I thought that I had struck gold when I came on the section called "Other publications", the first one of which was "New Directions in Differential Equations". Perhaps I should have stuck to differential equations, because at least they have one or two well-known solutions, which we do not have in the case of the foot-and-mouth outbreak.

In many ways, we are still at an interim stage. Some of the conclusions of the various inquiries that we are considering have raised more questions than they answered. As one member

said, that will disappoint many, given the time that has elapsed since the outbreak. Many of the measures that are outlined in the response to the reports are welcome—for example, increased biosecurity measures and increased training.

The 20-day rule came in for considerable criticism, not least from my colleague Richard Lochhead. It is instructive to note from the diagram of the various movements that was published in the lessons to be learned report that, until the disease hit Longtown mart, the numbers that were involved were incredibly small and the disease's rate of spread was incredibly slow. Only when the disease hit Longtown mart did it mushroom. As George Lyon suggested, we must examine how to avoid that risk in future. Perhaps we should consider more seriously how farmers market their products. We clearly cannot allow such a disaster to happen again.

Alex Fergusson: Does Alasdair Morgan accept that, if, as George Lyon suggested, markets were to become electronic or virtual, the biosecurity risk would be increased, particularly in the case of breeding stock, simply because farmers would be encouraged to travel from farm to farm inspecting stock before they purchased it, rather than taking stock to one place where biosecurity can be better addressed?

Alasdair Morgan: That might well be the case, which is why I said that we had to consider other methods. We must not again be in the situation where, if the disease gets to a place such as Longtown mart, it ends up in innumerable other places, which makes trying to contain it almost impossible.

Prevention, as in all matters, is always best. However, I disagree with George Lyon. Although it might be fine to put up notices deterring personal imports, the evidence from the lessons to be learned report is that a personal import was unlikely to have caused the problem. The cause of the outbreak is much more likely to have been an illegal commercial import. No number of notices will deter those who know that they are breaking the law, although the ban on pig swill may help in that regard.

I am disappointed that the Executive has not accepted all the RSE's recommendations on the state veterinary service in Scotland, which effectively ask for more devolution to that service. I am not making a nationalist point, but there is a little illogicality in slapping ourselves on the back saying how much better we did things in Scotland and then saying that there is an argument for keeping the state veterinary service as a UK organisation.

I welcome the commitment—I think—to rehearsals in the Executive's response document.

I presume that those rehearsals will continue into the distant future. Whatever policies are finally decided on, we need to be able in 25 years' time or whenever another outbreak happens—it is bound to happen at some stage—to implement them effectively and quickly.

One of our failures in tackling the disease lay in access. In hindsight, the initial strictures to close down the countryside were far too strict. After we had realised that they were wrong, it was not a great idea to give the National Trust for Scotland the lead role in administering "The Comeback Code". The RSE notes in its report:

"this was not fully effective."

That must be the understatement of the month.

Let me clarify the position of my colleague Fergus Ewing on the RSE's recommendation of a three-week ban. He very much agrees that that recommendation should be rejected, as it is far too strict. What he was trying to get across was that, if any closure proves necessary, it should be lifted as soon as possible.

There is a deeper problem. We have no evidence of how dangerous access by tourists or ordinary individuals is. I prefer the part of the Executive's response that says that the

"countryside will be kept open with closure only being permitted on the basis of a veterinary risk assessment".

Given that some areas of Dumfries and Galloway that are fairly distant from the areas of last year's outbreak were kept shut long after the last confirmed cases, it is still not clear exactly what the scientific basis of such veterinary assessments is. However, it is clear that the financial loss to tourism probably far exceeded that to agriculture. We need to find out what scientific evidence our access restrictions are based on. We do not have that evidence at the moment.

I do not have time to talk about culls and vaccinations, except to say that, if any future outbreak is as bad or as long as last year's, acceptance on the part of the public, and indeed on the part of the farming community, will not be as readily available as it was then.

We have a heavy burden on us. We saw what happened during last year's outbreak. We saw what went right; we saw what went wrong. We have to set in place a system to ensure that a future outbreak does not have the same devastating effect as last year's did.

16:52

Ross Finnie: We have had a useful debate on the issues surrounding the Executive's response to the reports of the foot-and-mouth disease inquiries. Many members have talked about the

appalling effect of what happened. We now have to move on, respond to the reports and look to the future and to what we can do, individually and collectively, both at Government level and at the stakeholder level, to learn the lessons and implement them as part of drawing a line under what was an appalling outbreak. Having spoken to people in agricultural communities, I know that they are now anxious to put that outbreak behind them and to move forward.

Fergus Ewing made a point about imports, which was picked up by other members. A number of references were made to the speeches that I heard at the NFUS conference in June, as well as to experiences in July. I do not think that we are in any way through the review of what is required. In response to Christine Grahame, I would say that the machinery of government secretariat—part of the Cabinet Office—reported only on 6 November and we are still digesting the outcome and import of its report. The Veterinary Laboratories Agency study into the risks of illegal meat will not be issued for a number of weeks, but it will be relatively short. That raises the question about our being careful. I am grateful to Alasdair Morgan for pointing out that the danger is not so much posed by individuals; by far the bigger source of danger rests with the illegal import of meats from illegal commercial activity.

We should be careful not to draw false comparisons between what happens in New Zealand and what happens at Heathrow airport. Alasdair Morgan is apparently pretty good at arithmetic, so perhaps he could tell us the annual movement of passengers through New Zealand compared with how many go through Heathrow in a day. There is no point in focusing effort in the wrong place.

On the measures that have already been taken, we have ensured that the current arrangement whereby individuals are allowed to bring meat into the country will cease in January, when it will become an offence for anyone to do so. The amount of meat that is confiscated at Edinburgh airport has risen dramatically as a consequence of the measures that have been put in place and because of the additional powers that have been given. Furthermore, a small experiment is being carried out in which the use of sniffer dogs is being trialled at Heathrow, but there are still issues about how best those who might bring in a potential risk can be targeted. Better intelligence is now being gathered and the import and export authorities are genuinely addressing the matter, but we will need to come back to what is a key issue whose consequences are raised in the reports.

All the reports point to real difficulties with vaccination, but I share the view that has been expressed by many—in particular by members

such as Euan Robson, David Mundell and Elaine Murray who are from areas that were much affected—that we would not willingly go forward with a slaughter policy. However, the reports point out that we must be careful to ensure that any vaccination scheme that is in place will actually do the job. We do not want to end up in the situation—which could happen under the existing regime—where, having vaccinated animals, we are then unable to distinguish between those that are infected and those that have been vaccinated. As a minister, I am absolutely clear that I would never again want to embark on a cull policy, but before we can dismiss that, we will need to have made some advance. Our response makes it clear that that is the direction in which we want to go.

On research, let me say to Fergus Ewing that it was most unfortunate that the UK authority did not apply for the BSE money. However, that money was only for BSE testing, not for general research. BSE does not impact on the research programme to which Fergus Ewing referred.

Fergus Ewing: Will the minister give way?

Ross Finnie: No, I want to move on to deal with the issue that was raised about the state veterinary service. The SVS had been drifting to the point where it was very much controlled as an arm of DEFRA. Since the disease outbreak, a management team has been created for the service in which the singular role of the chief veterinary officer for Scotland will now be recognised.

I am not entirely clear about what additional powers Richard Lochhead would seek. On a statutory basis, the Scotland Act 1998 clearly sets out that the control of disease outbreaks is a reserved matter.

Alex Fergusson mentioned the use of reserve vets. The current arrangements for local veterinary inspectors are being revised and the LVI pool is being developed with the professional bodies. I think that there will still be support for the use of LVIs in any future outbreak.

I am grateful to several members, who dealt with a number of the issues—*[Interruption.]*

The Deputy Presiding Officer: Order. There is far too much chuntering.

Ross Finnie: My colleague Euan Robson pointed out the problems with communication. The points about what should be done with specialist breeds were also well made and I am grateful for them.

George Lyon made a point about movement controls, which Alasdair Morgan picked up in his closing remarks. We would make a great mistake if we were to listen only to one side of the argument about why movement controls have

been imposed. Those who say simply that the controls damage the industry should listen carefully to what the veterinary people are saying. The vets feel strongly about the need to have controls. George Lyon referred to the need to look at where the movements actually take place and how the movements might be addressed, which are issues that we should not lightly dismiss.

The industry should recognise that the notion that we can go back to the position that obtained immediately prior to the outbreak of the disease is not tenable in the round. However, as I indicated in my opening remarks, we will give much more weight to the risk assessment and cost-benefit analysis. When we have done that and taken account of factors such as those that George Lyon raised, we will be in a better position to respond adequately to the situation.

On the question of access, I am grateful that the majority of members who took part in the debate supported the view that restrictions to access should be relaxed only on the basis of a sound veterinary assessment.

Paragraph 105 of the Executive's response makes it clear that there are continuing rehearsals for emergency planning. That is part of the Scottish local authorities' responsibilities and we have already updated our contingency plans.

The three reports have produced a huge amount of material. I hope that members will acknowledge that the Scottish Executive, in accepting the majority of the reports' recommendations, is making a genuine undertaking to move forward. As many members have said, the issues cannot simply be dealt with in a day. I assure the Parliament that there will be absolutely no complacency in the way in which the Executive tackles the issues. The issues are serious and require us to work, not just as the Government, but collectively with the farming industry and with all the stakeholders to ensure that the most robust framework is in place. We must minimise the risk of future disease outbreaks, protect Scotland's valuable livestock industry and remove the threat to the wider interests of tourism and all those interested industries that were so badly affected by the foot-and-mouth outbreak.

Presiding Officer's Ruling

17:00

The Deputy Presiding Officer (Mr George Reid): Before we move to the next item of business, I am in a position to give a response to the point of order that was raised by Stewart Stevenson when Murray Tosh was in the chair. Members will recall that the point of order related to Sewel motions.

Rule 9.1 of the standing orders requires a financial resolution to be agreed in certain circumstances and applies only in relation to bills introduced in the Scottish Parliament. An equivalent procedure exists at Westminster and bills introduced there are subject to that procedure. In agreeing to a Sewel motion, members should therefore be aware that it is implicit that responsibility for considering the financial implications of a Westminster bill rests with Westminster.

Dorothy-Grace Elder (Glasgow) (Ind): On a point of order, Presiding Officer. I object to the term "Sewel motion". Can we communicate with Westminster so that we can have such motions more accurately named "Westminster motions", so that Sewel does not just become a euphemism over the years?

Ms Margo MacDonald (Lothians) (SNP): That is a good point.

The Deputy Presiding Officer: It is, of course, a convention and your views are noted.

Parliamentary Bureau Motions

17:01

The Deputy Presiding Officer (Mr George Reid): The next item of business is consideration of two Parliamentary Bureau motions. They are S1M-3599 on the approval of a Scottish statutory instrument and S1M-3607 on the designation of lead committees.

Motions moved,

That the Parliament agrees that the draft Budget (Scotland) Act 2002 Amendment Order 2002 be approved.

That the Parliament agrees that the Education, Culture and Sport Committee be designated as lead committee in consideration of the Gaelic Language (Scotland) Bill and that the Local Government Committee be a secondary committee.—[*Euan Robson.*]

The Deputy Presiding Officer: The questions on the motions will be put at decision time.

Decision Time

17:02

The Deputy Presiding Officer (Mr George Reid): There are nine questions to be put as a result of today's business. The first question is, that motion S1M-3188, in the name of Jim Wallace, on the general principles of the Title Conditions (Scotland) Bill, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament agrees to the general principles of the Title Conditions (Scotland) Bill.

The Deputy Presiding Officer: The second question is, that motion S1M-3588, in the name of Andy Kerr, on the financial resolution in respect of the Title Conditions (Scotland) Bill, be agreed to. Are we agreed?

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Title Conditions (Scotland) Bill, agrees to any increase in the sums payable out of the Scottish Consolidated Fund in consequence of the Act.

The Deputy Presiding Officer: The third question is, that amendment S1M-3608.1, in the name of Christine Grahame, which seeks to amend motion S1M-3608, in the name of Jim Wallace, on the Extradition Bill, which is UK legislation, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Elder, Dorothy-Grace (Glasgow) (Ind)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 Hyslop, Fiona (Lothians) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McMahan, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)

Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 28, Against 75, Abstentions 0.

Amendment disagreed to.

The Deputy Presiding Officer: The fourth question is, that motion S1M-3608, in the name of Jim Wallace, on the Extradition Bill, which is UK legislation, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Harper, Robin (Lothians) (Grn)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)

McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Elder, Dorothy-Grace (Glasgow) (Ind)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 76, Against 26, Abstentions 0.

Motion agreed to.

That the Parliament notes the provisions of the Extradition Bill and agrees that those provisions conferring Executive functions on the Scottish Ministers in relation to extradition should be considered by the UK Parliament.

The Deputy Presiding Officer: The fifth question is, that amendment S1M-3602.2, in the name of Fergus Ewing, which seeks to amend motion S1M-3602, in the name of Ross Finnie, on the Scottish Executive response to foot-and-mouth disease inquiries, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 Hyslop, Fiona (Lothians) (SNP)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)

Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Johnstone, Alex (North-East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McMahan, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

ABSTENTIONS

Elder, Dorothy-Grace (Glasgow) (Ind)

The Deputy Presiding Officer: The result of the division is: For 27, Against 75, Abstentions 1.

Amendment disagreed to.

The Deputy Presiding Officer: The sixth question is, that amendment S1M-3602.1, in the name of Alex Fergusson, which seeks to amend motion S1M-3602, in the name of Ross Finnie, on the Scottish Executive response to foot-and-mouth disease inquiries, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Mr Murray (South of Scotland) (Con)
 Young, John (West of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Colin (West of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North-East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGugan, Irene (North-East Scotland) (SNP)
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)

Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Wilson, Andrew (Central Scotland) (SNP)

ABSTENTIONS

Elder, Dorothy-Grace (Glasgow) (Ind)
 Harper, Robin (Lothians) (Grn)

The Deputy Presiding Officer: The result of the division is: For 14, Against 87, Abstentions 2.

Amendment disagreed to.

The Deputy Presiding Officer: The seventh question is, that motion S1M-3602, in the name of Ross Finnie, on the Scottish Executive response to foot-and-mouth disease inquiries, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)

Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Etrick and Lauderdale) (LD)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacKay, Angus (Edinburgh South) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Sheridan, Tommy (Glasgow) (SSP)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Campbell, Colin (West of Scotland) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Elder, Dorothy-Grace (Glasgow) (Ind)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Harper, Robin (Lothians) (Grn)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North-East Scotland) (Con)

Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 61, Against 1, Abstentions 41.

Motion agreed to.

That the Parliament notes the conclusions and recommendations of the Lessons to be Learned, Royal Society and Royal Society of Edinburgh inquiries into foot-and-mouth disease and welcomes the Scottish Executive response which builds on their recommendations and aims to develop a framework for reducing the risk of importing infectious diseases, reducing the vulnerability of livestock and minimising the impact of any future outbreak to give better protection to Scotland's valuable livestock industry.

The Deputy Presiding Officer: The eighth question is, that motion S1M-3599, in the name of Patricia Ferguson, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Budget (Scotland) Act 2002 Amendment Order 2002 be approved.

The Deputy Presiding Officer: The ninth and final question is, that motion S1M-3607, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Education, Culture and Sport Committee be designated as lead committee in consideration of the Gaelic Language (Scotland) Bill and that the Local Government Committee be a secondary committee.

Affordable Rural Housing

The Deputy Presiding Officer (Mr George Reid): The final item of business is a members' business debate on motion S1M-3538, in the name of John Farquhar Munro, on affordable rural housing. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the shortfall in affordable housing in rural areas for rent or for purchase particularly for young families; acknowledges that, in part, the cause of this can be traced to second home ownership; believes that in order to maintain a sustainable future for rural Scotland measures must be taken to encourage young people and families to remain in their communities, and considers that the Parliament should review the provision of socially rented housing as well as the extent of second home ownership throughout rural Scotland.

17:12

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I am pleased to have the opportunity to air this important issue in the Parliament. More often than not, housing is discussed in the context of urban housing and homelessness. One reason why the rural housing problem is not often brought to the fore is that, like rural poverty, it is less visible and is spread over a wider area than comparable urban problems. However, that does not mean that the problems that affect our rural communities are less severe. We cannot abandon them because they are difficult to deal with.

In my constituency, the mismatch between the supply of and the demand for housing is at its highest-ever level. For example, in Skye and Lochalsh in 2000 and 2001, Highland Council had a waiting list of 500, but just 50 houses became available for relet. I will put that into perspective. A young family could be forced to wait up to 10 years for a home in the area in which they were born and work. I am sure that everybody agrees that that situation is unacceptable.

The problem is that water flows out of the bottom of the barrel three times faster than it flows in. Housing associations, which have replaced local councils as the main supplier of new social rented accommodation, can build only one house for every three that Highland Council sells. In the most heavily pressured areas, such as Badenoch and Strathspey, two thirds of council houses have been bought, and the private housing market is beyond the reach of most people with housing needs.

In my neck of the woods, a former council house in the village of Plockton was sold for £126,000 and is to be used as a holiday home. Any local family that wanted to buy that house would have

needed an income of about £40,000 per annum to obtain a mortgage, never mind make the mortgage repayments. I remind members that the average income in the Highlands is between £10,000 and £15,000. The situation is unsustainable and is in danger of draining our rural communities of local people.

How is the situation to be addressed? The answer is simple: in a word—money. We need to invest more money in housing throughout rural Scotland. The Executive has not been inactive. The rural home ownership grant, which was set up to help people to buy and build a modest home, is a good scheme. However, in essence, the money is used to fill the gap between the approved building costs and the mortgage that the applicant can raise. In order to make a real change, Communities Scotland's budget needs to increase significantly.

In real terms, investment in rural housing has been static since the mid-1990s. I am afraid that the situation has not changed circumstantially since 1999. People, including those in our rural communities, expected devolution to change the way in which our country is governed. People expect the potential crisis in the provision of affordable housing in rural areas to be averted. It is imperative that each and every one of us does not let them down.

In England, where the housing situation is no worse than it is in Scotland, the budget for housing has been doubled. I would hate to see Scotland left behind. I accept the fact that a natural consequence of devolution is that different decisions are made in Scotland from those that are made in England. However, when such an obvious discrepancy exists, as is the case with rural housing, the Executive has a duty to investigate the matter. I am sure that it will find that the level of spending on housing in Scotland, particularly in rural areas, needs to be reviewed.

Many houses in rural Scotland are out of the reach of those who need them. One practical suggestion is for all plots or sites that have been built on with the aid of the rural home ownership grant to be subject to the right of pre-emption at market value. That form of protection for community rural housing could be enhanced by the creation of a bridging fund that is guaranteed by the Scottish Executive. Such a fund would ensure that sufficient resources could be accessed quickly so that pre-emption could be exercised. The money would be repaid into the bridging fund when the repurchased property is sold on. Such a system would stop resale for massive profit and would ensure that an affordable stock is kept for those who wish to make their home a permanent residence.

It is also important that the Executive encourages the establishment of rural housing

trusts to buy and sell sites for the sole purpose of meeting the needs of individual communities for affordable housing. The local enterprise companies and local authorities must aid that process by ensuring that all grants that are given to landowners in heavily pressured areas are subject to those landowners releasing suitable land for housing. Such schemes exist.

One way in which local authorities could generate much-needed housing revenue is to remove the 50 per cent council tax exemption on holiday homes and second homes. In Highland for example, more than 6,000 properties are eligible for that rebate at the moment. It is estimated that, were the rebate removed, it could generate well over £2 million for the council's needs. It is clear that, if such a decision were to be taken, there would be demands from other council departments for a slice of the cake. Should the rebate be removed, some of the additional money that would result should be ring fenced for strategic land banking and housing-related purposes.

Scotland's lack of affordable housing in rural areas now merits serious and urgent consideration by us all. We do not need more schemes that seem to originate in cloud-cuckoo-land or a suggestion that we can build proverbial castles in the air. Let us be realistic. We need bricks and mortar on the ground that our indigenous young people in rural Scotland can at last call home.

The Deputy Presiding Officer: The debate is grossly oversubscribed. I have 15 members to fit into 31 minutes, which does not go. I have asked the minister for an extra 10 minutes, which enables me to take eight speeches of three minutes each. After that time, members should give headline bullet points only.

17:19

Mr Alasdair Morrison (Western Isles) (Lab): I congratulate my fellow Highlander on securing a debate on the important issue of rural housing. In his opening speech, John Farquhar Munro rightly said that people expected Scotland to be governed differently following devolution. Indeed, tonight's debate proves that Scotland is being governed differently: 18 members are present and a minister will respond to the debate. Indeed, I am sure that he will respond positively to all the suggestions that are put to him in the debate.

As far as the Western Isles are concerned, I can happily report that devolution is delivering in the important areas of education, health and transport—although, that said, I will be raising a transport issue in relation to Barra in the chamber next week.

We have witnessed some significant developments in housing. As the minister, John

Farquhar Munro and other members who represent the crofting counties will appreciate, the crofting building grant and loan scheme has historically been great and continues to provide affordable housing for many people.

Mr Jamie McGrigor (Highlands and Islands) (Con): Will the member give way?

Mr Morrison: Usually I would give way, but I have only another minute and a half to go.

Since 1999, the Executive has rightly streamlined the scheme and allowed different people to access the grants and loans that are available. That is a welcome step. I also welcome the First Minister's pledge at the Highlands and Islands convention to examine further how the scheme can be improved to ensure that many others can gain access to it.

In my last few minutes, I want to concentrate on housing need in my constituency. Earlier in the year, I met the minister and his colleague Margaret Curran to discuss the 800-person waiting list on the island of Lewis. Lewis has a desperate need of affordable housing. The discussion was useful, and I would appreciate it if the minister and Margaret Curran would agree to meet me next week to allow me to flesh out the detail that I presented to them some months ago. At that meeting, I will bring him all the necessary data from George Lonie, the chair of housing at the Western Isles Council; Norman Macleod, his vice-chairman; and Angus Lamont, the director of the housing department. All of them, along with other partners, have focused on that need and I would appreciate a meeting with the minister at his earliest convenience.

I will be happy to update the minister and the Executive on the stock transfer process in the Western Isles, which is moving positively with excellent and first-class consultation. However, as John Farquhar Munro said, there is a need for homes. The need exists in his constituency, and I am sure that other members will raise similar issues.

There must be affordable housing for people who move into rural communities. Furthermore, we need a structure that allows people who leave our islands for universities and colleges to come back home when job opportunities become available.

17:22

Richard Lochhead (North-East Scotland) (SNP): I congratulate John Farquhar Munro on securing this important debate. The lack of rural housing is an issue for the whole of rural Scotland and is particularly important in Aberdeenshire and north-east Scotland. It is terrible that young people

in Aberdeenshire, throughout the Highlands and Islands and elsewhere simply cannot afford to live and work in the areas where they were brought up. Such a situation is disgraceful in the 21st century. Now that we have the new Scottish Parliament and a Government in Scotland, we must stop protecting the landowners who hold so much power and have so much influence in this country, and we must introduce a radical agenda that will help our young people to have a future in their communities.

According to briefings that have been issued by Shelter and other organisations, a third of the houses in rural Scotland were built before 1919, compared with only 19 per cent of houses in urban Scotland. Four per cent of rural houses are below tolerable standard. Moreover, 5 per cent are tied houses, and landowners or others basically enslave their employees because they are in charge of their housing needs. That situation is outdated and ridiculous in a modern Scotland.

We have a chronic lack of social housing in Aberdeenshire. For example, 4,000 people are on the waiting lists, including 642 people in the Mar area alone. Indeed, Shelter's briefing on rural housing says:

"In 2000 Aberdeenshire Council estimated that around 65% of households in housing need were unable to afford even the cheapest owner-occupied or rented housing."

Part of the difficulty is that the oil industry is based in north-east Scotland. People who earn a packet in the city live out in the country, which means that local people simply cannot afford to compete. The last plot of land that sold in Aberdeenshire went for £200,000; it was small and described as not particularly good. How on earth can local people afford to bid for that?

A few weeks ago, I was speaking to a tenant farmer and his son. The son looked out the window and said, "I can't afford to buy a property in this area; I can't even afford to live near the farm." He pointed to an empty property owned by the estate on the grounds of the farm. He cannot afford to bid for it or live in his own community near his father, who is the farmer on the family farm. That is a disgraceful situation.

We need radical policies from the Parliament. I think that local councils should compulsorily purchase land. People, too, should have the power to purchase land compulsorily if they are local and have a local connection. They should just be able to get land off the local landowner, who should have no say in the situation. We have to zone land, so that local people can get it and people from outside cannot move in and outbid them. We have to come up with such radical solutions.

On all the north-east estates that are owned by greedy and selfish landowners, there are loads of

empty houses, but local people cannot get their hands on them because the landowners do not want them to be occupied. They want to sell off new plots of land and build houses that go for £200,000 each, which only incomers can afford. Once again, local people are excluded from not only the land, but the existing empty houses on it.

I finish by telling John Farquhar Munro that he raised some excellent points, but cash is not the only issue. We need more money to help to build social housing and to help people to buy houses in their own localities, but we also need to change the law so that it is on the side of the local people, not the landowners.

17:26

Nora Radcliffe (Gordon) (LD): I commend John Farquhar Munro for highlighting the lack of affordable rural housing and I endorse all that he said in his speech.

One of my first experiences as a councillor was a visit by the first chairman and chief executive of the then newly created Scottish Homes. When asked whether Scottish Homes could deliver small projects in our rural communities, the chairman was keen to assure us that he saw no problem in delivering small schemes, down to perhaps as few as 30 houses. We were talking about four or five houses in small rural settlements. Happily, that total ignorance of what rurality means is much rarer nowadays, but there is no harm in reminding people about the circumstances of rural settings, which heavily affect the provision of housing in small settlements or the countryside.

There are no economies of scale. Suppliers are in short supply, and building materials may have to be transported long distances in small quantities, which is expensive. Contractors can be similarly scarce on the ground, and finding one plumber, carpenter or electrician can be hard enough, never mind having enough of them to compete for business and drive down costs. Land can be in short supply, and housing associations have to compete against private developers and individuals for what is available.

As Richard Lochhead highlighted, the competition for first houses is the problem. Second homes are not a large problem, but there are a lot of tied houses. Once upon a day, the council had the capacity to offer council houses to retiring farm workers, but the right to buy wiped out rural council housing, and the scheme ensured the inability of councils to replace the housing stock. The policy might have been for the private rented sector to move to fill the gap, but manifestly that did not happen.

A lot of housing policy is based on identifying the pressure points. How does one identify a rural

housing need when people do not stay to create or demonstrate a pressure point? They leave, and the resultant depopulation and changes in demography affect the area's economy, narrowing dramatically the potential for economic development. There is increasing recognition of the necessity to develop new models that accurately pick up and reflect rural needs. What must follow is a willingness to devote resources at a level that reflects the increased costs of delivery in a rural setting.

17:29

Mr Jamie McGrigor (Highlands and Islands) (Con): Recently, Hugh Allen, the secretary of Mallaig and North West Fishermen's Association, told me that a fish processing factory in Mallaig had closed down because it could not find enough housing for the factory's employees. That is a terrible situation, especially when the Scottish Executive says that it is committed to maintaining rural communities.

The Rural Development Committee, of which I am a member, has recently travelled to several areas of rural Scotland to take evidence for our inquiry into integrated rural development. It became obvious from that evidence that affordable housing was a key issue that must be addressed if we are to have thriving rural communities. Gone are the days when the communities would pull together physically to build a house of stone and thatch for someone who needed one. Housing associations should fulfil that need, but they face many difficulties.

For example, the issue of second homes poses a difficulty. No one can blame people for wanting to have a holiday home in a beautiful place, and some people let holiday homes as their business, which brings in useful income. However, it is extremely frustrating when houses are snapped up for that purpose while young people who want to live in the area cannot find a home. A recent survey in Mull, Iona and Ulva concluded that local people have high dependence on low and seasonable incomes, but that the housing market is distorted by significant immigration of people who want retirement and holiday homes.

The decision on charging council tax for second homes should be devolved to individual councils so that they can decide what is in the best interests of their own areas. A one-size-fits-all solution seems wrong. After all, there are different rates of council tax in different areas.

Skye and Lochalsh, Lochaber and the inner Moray firth are particularly affected by second home ownership, as are many areas in Argyll and Bute. The resale of former council homes also reduces the supply of affordable rented housing and the supply of further houses has dried up. Out

of 140 homes in Plockton, the village that John Farquhar Munro mentioned, 51 are holiday homes and only 22 are council houses. In the Highlands in the past 10 years, council right-to-buy sales totalled 6,198. During the same period, 2,263 new houses were built by the council and by housing associations, leaving a shortfall of 4,000 houses. With so few houses available for rent, the sale of even a few creates a serious imbalance.

We require houses that can be erected quickly, using modern high technology, in areas where housing is most needed. They should be built with enough space to accommodate young families and should be highly energy efficient and built with modern materials. Above all, their appearance must fit in with the environment. If enough houses were fabricated, the costs would be low enough to make them affordable. Some building contractors are making inroads in that direction, which is very encouraging.

Alasdair Morrison mentioned the crofting building grants and loans scheme, which is a good way of producing new low-cost houses in crofting communities. However, that scheme has failed to keep pace with inflation and I ask the Executive to review and update it as soon as possible. Relaxing planning controls would guarantee a greater supply of affordable housing. That is one of the key steps that should be taken.

17:32

Rhoda Grant (Highlands and Islands) (Lab): I congratulate John Farquhar Munro on securing a debate that is of huge importance to the people of the Highlands and Islands. I would like to put on record the fact that the Executive has listened to a lot of the concerns that have been raised in the past. During the passage of the Housing (Scotland) Act 2001, the Executive extended the date by which housing associations could register for charitable status, which exempted them from the right to buy. It also set up the rural partnership for change, which led to housing in pressured areas also being exempt. That is a good starting point, but we must bear in mind the fact that great issues remain to be addressed.

The motion mentions second-home ownership, and John Farquhar Munro also talked about council tax discounts. In answer to a question a couple of weeks ago, Margaret Curran told me that she was considering those discounts. I would be grateful if Hugh Henry would do what he can to ensure that that issue is addressed. I understand that the Westminster Parliament has considered giving powers to councils so that they could remove the exemption of second homes from council tax.

Areas such as Grantown-on-Spey have huge housing problems. That is one of the issues that

members of the Rural Development Committee talked about when they discussed the draft designation order for the Cairngorm national park. There is a huge shortage of housing because of second homes and holiday homes. One of the problems that the committee considered was that, if the park were given full planning powers, there could be a drop in affordable and rented housing in the area, but it must be our priority to ensure that all areas have affordable housing to buy and to rent.

We must look at new ways of achieving that. Shelter Scotland had argued that an inquiry should be conducted into ways of ensuring that housing is retained for permanent use rather than for second-home use. It would be a good idea if we could consider the possibility of planning restrictions on new housing developments to ensure that they are excluded from the second home market. I would be grateful if the minister would consider that point.

It is often thought that homelessness does not affect the Highlands and Islands, but we have a huge homelessness problem in places such as Lochaber and Ross and Cromarty. It is hidden homelessness. People are living in overcrowded accommodation, sleeping on floors and sofas or living in caravans. Lack of housing has a huge effect on the local economy. Businesses have vacancies, but they are unable to recruit staff because the lack of housing means that they cannot get people to relocate to the area. To be honest, we are possibly victims of our own success. The Highlands economy is improving and its population is increasing. As a result, we need to address the housing shortage.

17:35

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): There are also problems with rural housing in the south-west of Scotland. The population in the south-west is declining but the number of elderly people is increasing, both in absolute and in relative terms. Such problems are common throughout Scotland, especially in rural areas. They have a knock-on effect on the whole economy, as they reduce the prospects for industrial and commercial development and put increased pressure on health and social services in which there is a diminishing resource base.

Several factors influence the situation, but the availability of housing is obviously a key factor. A large proportion of the letters in my mailbag is from people trying to get a house; often, several people write to me about the same council house.

I have dealt with poignant cases involving agricultural and estate workers who have spent all their lives living in a tied house and have had to

leave it through retirement or sickness. In such cases, people find that no council house is available, although they have the consolation of an assurance from the council that something will be found for them if they are made homeless. That is no way to reward a life of work in the countryside.

How can we solve such problems? To an extent, the problem of demand can be addressed. I totally agree that the 50 per cent reduction in council tax for second homes should be scrapped. The logic behind that reduction was that people with second homes do not consume the same amount of council services, but the same applies to many people who pay the full rate. However, although that situation is no longer justifiable, scrapping the reduction will not change demand. People who can afford to buy second homes can afford to pay 100 per cent—or even 150 per cent—of a council tax charge.

We must address the supply side of the equation. I do not have much hope that the Land Reform (Scotland) Bill will address the supply side in the short term. The pre-emptive right to buy will also become available, but we all know that the amount of land that will change hands and allow a local community pre-emptively to buy land for housing will be only a small proportion of the total.

In my area, the availability of sewage works is a major constraint. People who are willing to build houses find that they cannot do so because Scottish Water has not provided the necessary infrastructure.

We need to consider relaxing our planning laws. We do not want to reach the stage that the south of Ireland has reached, where almost every field has a house on it, albeit that that is indicative of a vibrant society. However, there are many areas of Scotland—Galloway in particular—that are by no means full and that could certainly take a few more houses.

Shelter Scotland's briefing summed up the situation well. It pointed out that housing problems in urban Scotland were often problems of

"low demand and housing quality".

It is right to say that absolute shortage is the problem in rural Scotland.

17:38

Mr Murray Tosh (South of Scotland) (Con): John Farquhar Munro has raised an important issue. I am the chairman of the development committee of a housing association in a rural area and want to refer to the problem that Alasdair Morgan mentioned—the policies of the Scottish Environment Protection Agency and Scottish Water in respect of accepting sewage in small rural communities in which planning authorities

expect housing to be connected to mains sewerage.

In most genuinely rural areas that are away from the big cities, housebuilding is driven by household formation—it is not driven by population growth on any significant scale or by migration. It is a simple fact that stable populations need more houses. For decades, average household sizes have been falling. People divorce, separate, live longer and are more independent. Our young people want to leave the parental home earlier. We need more houses simply to sustain static and stable populations.

However, Scottish Water is now talking about embargoes in large areas of rural Scotland, in areas in which SEPA advised it that the local sewerage infrastructure is either over or at the discharge consent levels that SEPA imposes. Unlike surface water, sewage is not produced by houses, but by people. I am concerned that the tight application of such restrictive policies by SEPA will, in effect, prevent housebuilding where it is needed to provide housing for people who are already in those communities. The long-term effect of such policies will be to prevent the construction of houses for locally generated demand. In some areas it will lead to an avoidable, unnecessary and socially destructive loss of population.

When new building is being promoted on the outskirts of Edinburgh, where there are large land releases, it is legitimate to expect that a lot of the added value of a strategic land release should be captured in planning gain and that the developer should be required to provide substantial new sewerage infrastructure. However, that seems to be a totally misguided policy for rural areas. I am talking about small towns and villages where houses are needed by people who already live and excrete locally. I do not see why we should prevent them from being housed by new building where it is not adding to the problem. There is surely scope for the Executive to commission some research, through its excellent central research unit, into this particular aspect of policy to see whether there is a requirement—if the Executive's broader social objectives are to be met—to treat affordable housing, built by registered social landlords, in a different and more enlightened way that will allow genuine needs to be met in localities throughout Scotland.

A final point is that 15 members are trying to speak in this tiny debate. Maybe the Executive should consider allocating some Executive time on the matter so that all the members who want to have their full say can comment.

The Deputy Presiding Officer: In the meantime, I will do my best by taking a motion without notice to extend the debate until 6 pm.

Motion moved,

That, under Rule 8.14.3, the debate be extended until 6.00 pm.—[*Mr Murray Tosh.*]

Motion agreed to.

The Deputy Presiding Officer: If members stick to speeches of two minutes—a lot can be said in two minutes—I will just about get in all the members who want to speak.

17:41

Dr Sylvia Jackson (Stirling) (Lab): I have just cut my speech to one minute. I thank John Farquhar Munro for instigating this important debate. I agree with Murray Tosh that we should have a wider, longer debate on the matter.

As members know, the Stirling constituency includes a large rural area. Many of the problems have been identified already. They include house prices and Stirling is one of the most highly priced areas—I gather that the average house price in the area is currently £93,657. The right to buy has already reduced the stock. There is an increase in the population; Stirling is one of the fastest growing areas in Scotland and waiting lists are at an all-time high. The situation is becoming almost intolerable.

I will mention the challenges that are faced by the Rural Stirling Housing Association. It states that the shortage of good-quality, available sites is a major obstacle to the development of new schemes. The association is currently working with Stirling Council planners in respect of the recently published alteration to the plan, which includes very few new sites zoned for housing within the rural area. That is a big problem.

Planners have flagged up the inadequate water infrastructure, which other members have mentioned, in certain parts of the area. Clarification is being sought from Scottish Water on exact hot spots. I ask the minister where he thinks that the Water Industry (Scotland) Act 2002 and the Water Environment and Water Services (Scotland) Bill will help in that respect.

A particular threat is posed by the introduction of the right to buy for certain housing association tenants, including tenants of the Rural Stirling Housing Association. Current properties will be exempt for 10 years, but future schemes will be vulnerable, despite the reduced discount rates. That is a big issue, which we must examine. We must consider how pressured areas are designated.

I add, because St Ninian's Primary School asked me to, that I hope that we do not get shoogly answers from the minister.

17:44

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I apologise to John Farquhar Munro for being unavoidably absent at the beginning of the debate. I look forward to reading his speech in the *Official Report*.

I will mention a point that has not yet been raised, which is that in many parts of rural Scotland the only places that can be developed are those that are off trunk roads, but it is extremely difficult to get permission to do anything off a trunk road, as the rules are too tight. I could mention individual cases. I hope that the minister will examine the matter very seriously.

We need to have more imaginative solutions. Farm steadings can be used to create more housing. We should promote timeshare developments, because they are occupied all year round. They do not lie empty as holiday homes do and they also contribute far more to the local economy. Zoning should be used more to allow land to be earmarked for young families with children and suitable housing to be developed for the people whom we want to attract back to rural Scotland.

The main point that I want to make in the short time available is about the council tax discount for second homes. During the 1999 election campaign and in the early days of the Parliament, I raised the issue repeatedly with the Executive and suggested that, as happens in Wales, local authorities should be afforded the discretion to remove the 50 per cent special discount that holiday home owners receive. I do not think that that discount is justified. The decision should be for local authorities but, sadly, the Executive ruled that out on several occasions in 1999.

It seems that there is now a rethink, although it is interesting that it came about only after John Prescott indicated that he intends to give local authorities in England the power to change the discount so that second home owners will have to pay up to 90 per cent of the council tax. That is better late than never. I hope that the minister will say precisely what the Executive's policy is on the matter.

17:46

George Lyon (Argyll and Bute) (LD): The shortage of rural housing, which is a feature in my constituency, is linked to the recruitment of doctors, nurses and teachers. For example, the Gaelic teacher at Salen Primary School in Mull had to sleep on a friend's floor for six months after she was appointed to the post because no council housing or social rented housing was available. The shortage makes it difficult for local authorities and the health service to encourage people to

relocate to the islands because, of course, housing is crucial for people. In my constituency, the shortage of housing is a barrier to the recruitment of public sector employees, especially in the key areas that I have mentioned.

Argyll and Bute is fortunate in that record investment has gone into building new homes. There has been a record spend profile. Although Fyne Homes has responded to the challenge admirably, the West Highland Housing Association has struggled to rise to the challenge. The spend is appreciated, but it has led to difficulties in acquiring land to build on for future programmes. I hope that, in the longer term, land reform will have an impact on land availability but, in the short term, it will not make a difference.

I turn to one issue that would make a huge difference. I know that the structure plan and the local plans in Argyll and Bute—and, I imagine, in the rest of the country—are being reviewed. I understand that Argyll and Bute Council intends to consider making more agricultural land available for building. That is key to unlocking demand constraints and making more land available for plots for housing associations and individuals who want to live in my area.

17:48

Maureen Macmillan (Highlands and Islands) (Lab): I congratulate John Farquhar Munro, who is a good old Ross-shire gadgie—that is my word for today—on securing a debate on an issue that is of significant concern to many people in the Highlands and Islands. As John said, the lack of housing stifles economic development in remoter communities and causes young people to drift to the towns. The issue has a human face. Lack of housing means that a disabled woman in Dingwall is waiting indefinitely to move to a house that is more convenient for her and it means that the women in the new refuge in Dingwall cannot move to the next stage of housing, which results in the refuge being full.

Members have pointed out that the situation in the north is different from that in the rest of Scotland. I have two points. Murray Tosh mentioned sewerage and water infrastructure. During the stage 1 debate on the Water Environment and Water Services (Scotland) Bill, I raised with Ross Finnie the implications of the bill for new house building in remote areas. It is worth raising those concerns again so that we can achieve joined-up government on the matter. From discussions with rural Highlands and Islands housing associations such as Orkney Housing Association and with communities such as those in Morvern and Ardnamurchan, I am concerned about who will fund the water and sewerage infrastructure. A site for a house is useless without

water and sewerage or consent from SEPA, which is apparently becoming increasingly more difficult to get. SEPA must be more mindful of its social responsibilities.

Where there is a declining population, housing development is needed if those communities are to survive. Currently, in areas where such infrastructure is inadequate or absent, the responsibility of providing both capital and maintenance costs lies with Scottish Water, provided that the costs are reasonable. However, the definition of reasonable is somewhat unclear. We must know what is to happen once the Water Environment and Water Services (Scotland) Bill is passed.

The Title Conditions Bill is also currently before Parliament.

It is quite an important point that the Small Communities Housing Trust is very anxious about how it will be able to stop people who have had rural housing ownership grant assistance from selling their houses.

The Deputy Presiding Officer: We have been beaten by the clock. Kenneth Gibson will make the final speech.

17:51

Mr Kenneth Gibson (Glasgow) (SNP): I will motor, but first I congratulate John Farquhar Munro on securing this debate. Affordable housing is now perhaps the biggest social issue in rural Scotland. Access to permanent accommodation is influenced by a wide range of complex factors: availability, cost, proximity to services and employment, household income, level of competition and productivity within the housing allocation processes.

Some rural areas, often those that are most isolated, have houses lying empty as a result of factors such as population drain and lack of local employment opportunities. However, in other areas, the opposite is the case. The rural partnership for change found that the right to buy has reduced opportunities for those who are reliant on the socially rented sector. People moving into rural areas often revitalise communities, but a side effect has been increased housing pressure. That is especially the case in areas that are within commuting distance of urban settlements and areas that are popular as holiday or retirement destinations. Housing pressure can have a detrimental effect on local communities, especially on people who are disadvantaged because of low income or other personal circumstances.

The quality of housing in rural Scotland is a concern among older people who own their homes

but cannot afford to carry out repairs. The rural partnership for change has indicated that the physical quality of houses is a major worry.

Lack of flexibility in addressing homelessness is a problem. I hope that the Homelessness etc (Scotland) Bill will sort that out. A significant proportion of homelessness applicants may spend time in temporary accommodation, either while they are being assessed or following assessment, while the local authority seeks appropriate permanent accommodation for them. Priority households in rural areas are more likely than their urban counterparts to be placed in, and spend longer periods of time in, temporary accommodation and bed-and-breakfast accommodation.

The supply of affordable housing is vital. Concerns have been raised in the Social Justice Committee that, to implement the Homelessness etc (Scotland) Bill, only enough moneys have been provided for eight additional houses in the Highland region, although 285 may be required. Homeless people are often placed in accommodation that is located in isolated areas, where they have limited access to services and support networks. That can make it costly and difficult to access services and employment.

Given the fact that household incomes in many rural areas are below the Scottish average, with incomes in some areas having shown a relative decrease over the past decade, the fact that house prices in rural Scotland have risen higher than those in urban areas is a worrying trend. The issue of affordable housing must therefore be addressed.

The Deputy Presiding Officer: For the record, Jamie Stone, Robin Harper and Margo MacDonald sat through the debate but were not called. I call the minister to wind up; he has until 18:00.

17:54

The Deputy Minister for Social Justice (Hugh Henry): I congratulate John Farquhar Munro, not just on securing the debate, but on stimulating a debate that has real resonance among members and which reflects huge concern throughout Scotland. It is telling that all the members who spoke were well informed and often spoke from personal experience or the experience of their constituents. That brought a richness to the debate that is sometimes lacking in parliamentary debates. John Farquhar Munro has done us all a great service this evening.

Far too many detailed, specific points were raised for me to reply to them all in the extremely short time that I have. I note the point that Murray Tosh made. Even in an Executive debate, we would have been struggling to include all the

members who wanted to speak. I will reflect on some of the direct suggestions that have been made.

Robin Harper (Lothians) (Green): Has there ever been any discussion in the Labour party about the contribution that moving to a system of land value taxation could make to the problems of our rural areas?

Hugh Henry: I will give the same answer to that question as I did to Sylvia Jackson's question about the Water Environment and Water Services (Scotland) Bill—I have absolutely no time to deal with such issues in the short time that I have available. However, we will try to reflect on as many of the practical suggestions as we can; some of them are perhaps more practical than others.

It is evident that rural Scotland faces particular problems. Yes, far more people require good-quality public sector housing in urban areas, but the density of the problem in rural areas compared with the rest of the population is obviously significant.

Ms Margo MacDonald (Lothians) (SNP): I appreciate the minister giving way when time is short.

Rather than saying that there is a greater problem in rural Scotland, will the minister accept that there is the same growing problem in Edinburgh as there is in the south-east of England, because we can no longer provide housing for people with socially responsible jobs in the community?

Hugh Henry: I acknowledge Edinburgh's problem, which, as Margo MacDonald said, is similar to that of the south-east of England. John Farquhar Munro commented on the amount of investment in England, but some of that investment reflects the fact that the south-east of England has a particular problem. However, since 1999, we have spent more as a percentage of our housing expenditure specifically on rural Scotland than was previously the case. That is a reflection of the Executive's willingness to listen and of members' good arguments in the chamber over the period.

John Farquhar Munro is right that money is needed, but I argue that our decision on the prudential housing regime will release more money for investment for councils with low debts. For those councils with high debts, the stock transfer would be able to release significant investment. Therefore, money should be available either way in the future to back up what we have already planned to spend. In the past four or five years, we have built over 6,000 new public sector houses in rural Scotland, with more to come in the future.

Alasdair Morrison asked me a specific question about the Western Isles because he, like others, has a problem with the issue of waiting lists. Margaret Curran and I are more than happy to discuss with Alasdair Morrison over the next week some of his specific points.

The main issue, which came up time and again during the debate, was council tax. The Executive will soon consult on whether the suggestions that were made during the debate should be progressed. My colleague Andy Kerr will do that in the near future.

Several members mentioned the right to buy. Jamie McGrigor intrigued me, because I was not sure whether he was condemning or promoting the right to buy. However, he certainly advanced many compelling arguments against the right to buy, on which I will dwell. We have already reduced the discount in the right-to-buy scheme. In addition, we will consider carefully whether the right to buy should be suspended in areas that councils believe are pressured. Councils in rural Scotland have the opportunity to come back to us with their proposals, should they decide to do so.

My colleagues in the environment department are aware of the problems with sewerage and water infrastructure, which also exist in urban areas. I acknowledge that there is a bigger problem in some of our rural communities because of their remoteness and we will certainly reflect on that.

George Lyon mentioned the release of agricultural land. I will go back and check the documents that we issued, but I remember signing off a document not long ago that contained an agreement to consider releasing agricultural land for development where appropriate, because of the changing nature of our agricultural needs and the demands in local communities. I am sure that that document has seen the light of day, but I will double check.

I have run out of time and cannot therefore take this debate much further. The debate has been constructive, however. The Executive has shown commitment in its attempts to shift a greater percentage of its money towards housing in rural Scotland. We have demonstrated our faith with some of the schemes that we have introduced, but there is much more to do. The quality and diversity of communities across rural Scotland are part of what makes the fabric of this country rich. We must recognise the fact that rural Scotland is not a playground for the rich, but should provide living communities for everyone.

The Deputy Presiding Officer: That concludes the debate. I am sorry that many members and, indeed, the minister were squeezed.

Meeting closed at 18:01.

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